



STATE OF MARYLAND



Maryland

DEPARTMENT OF  
JUVENILE SERVICES  
(DJS)

INVITATION FOR BIDS (IFB)

HVAC, BOILER MAINTENANCE AND WATER TREATMENT  
SERVICES AT THE HICKEY SCHOOL

IFB NUMBER 21-MX-H01 EMMA#BPMO25440

ISSUE DATE: AUGUST 11, 2021

NOTICE TO BIDDERS

SMALL BUSINESS RESERVE PROCUREMENT

This is a Small Business Reserve Procurement for which award will be limited to certified small business vendors. Only businesses that meet the statutory requirements set forth in State Finance and Procurement Article, §§14-501 —14-505, Annotated Code of Maryland, and that are certified by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) Small Business Reserve Program are eligible for award of a contract.

**HOWEVER, IF SMALL BUSINESSES DO NOT SHOW INTEREST IN THIS SOLICITATION, THE PROCUREMENT OFFICER HAS THE RIGHT TO REMOVE THE SBR DESIGNATION VIA AN AMENDMENT ON EMMA.**

### **NOTICE**

A Prospective Bidder that has received this document from a source other than eMarylandMarketplace Advantage (eMMA) <https://procurement.maryland.gov> should register on eMMA. See **Section 4.2**.

**MINORITY BUSINESS ENTERPRISES ARE ENCOURAGED TO RESPOND TO THIS SOLICITATION.**

**NO BID NOTICE/VENDOR FEEDBACK FORM**

To help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, please provide comments and suggestions regarding this solicitation. Please return your comments with your response. If you have chosen not to respond to this solicitation, please email or fax this completed form to the attention of the Procurement Officer (see Key Information Summary Sheet below for contact information).

**Title: HVAC, Boiler Maintenance and Water Treatment Services**  
**Solicitation No: 21-MX-H01**

1. If you have chosen not to respond to this solicitation, please indicate the reason(s) below:
  - ☐ Other commitments preclude our participation at this time
  - ☐ The subject of the solicitation is not something we ordinarily provide
  - ☐ We are inexperienced in the work/commodities required
  - ☐ Specifications are unclear, too restrictive, etc. (Explain in REMARKS section)
  - ☐ The scope of work is beyond our present capacity
  - ☐ Doing business with the State is simply too complicated. (Explain in REMARKS section)
  - ☐ We cannot be competitive. (Explain in REMARKS section)
  - ☐ Time allotted for completion of the Bid is insufficient
  - ☐ Start-up time is insufficient
  - ☐ Bonding/Insurance requirements are restrictive (Explain in REMARKS section)
  - ☐ Bid requirements (other than specifications) are unreasonable or too risky (Explain in REMARKS section)
  - ☐ MBE or VSBE requirements (Explain in REMARKS section)
  - ☐ Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section)
  - ☐ Payment schedule too slow
  - ☐ Other: \_\_\_\_\_
2. If you have submitted a response to this solicitation, but wish to offer suggestions or express concerns, please use the REMARKS section below. (Attach additional pages as needed.)

**REMARKS:**

---

---

Vendor Name: \_\_\_\_\_ Date: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**STATE OF MARYLAND**  
**THE DEPARTEMNT OF JUVENILE SERVICES (DJS)**  
**KEY INFORMATION SUMMARY SHEET**

<b>Invitation for Bids</b>	Maintenance - HVAC, Boiler Maintenance, and Water Treatment Services at the Hickey School
<b>Solicitation Number:</b>	21-MX-H01
<b>IFB Issue Date:</b>	<b>August 12, 2021</b>
<b>IFB Issuing Office:</b>	Department of Juvenile Services (Department or DJS)
<b>Procurement Officer:</b>  <b>e-mail:</b> <b>Office Phone:</b>	Michelle Thomas 217 E. Redwood Street <a href="mailto:Michelle.thomas2@maryland.gov">Michelle.thomas2@maryland.gov</a> (410) 230-3437
<b>Bids are to be sent to:</b>	Bids will be accepted through the State's eMaryland Marketplace Advantage (eMMA) e-Procurement system. Instructions on how to submit electronically can be found at: <a href="https://procurement.maryland.gov/wp-content/uploads/sites/12/2021/01/4-eMMA-QRG-Responding-to-SolicitationsIFB.pdf">https://procurement.maryland.gov/wp-content/uploads/sites/12/2021/01/4-eMMA-QRG-Responding-to-SolicitationsIFB.pdf</a>
<b>Site Visit:</b>	<b>Wednesday August 25, 2021 at 9:00 am</b> <b>Charles Hickey Youth Detention center</b> <b>9702 Harford Rd. Building #8 Baltimore MD</b> See <b>Attachment A</b> for directions and instructions.
<b>Questions Due Date and Time</b>	<b>September 3, 2021 9:00 @ Local Time</b>
<b>Bid Due (Closing) Date and Time:</b>	<b>September 10, 2021 10:00 am @ Local Time</b> Bidders are reminded that a completed Feedback Form is requested if a no-bid decision is made (see <b>page iv</b> ).
<b>Virtual Public Bid Opening Date, Time and Location</b>	<b>September 10, 2021 11:00 am @ Local Time</b> <a href="https://meet.google.com/afm-uszs-yqt">meet.google.com/afm-uszs-yqt</a>
<b>MBE Subcontracting Goal:</b>	2% with no subgoals.
<b>VSBE Subcontracting Goal:</b>	0%
<b>Contract Type:</b>	Indefinite quantity (COMAR 21.06.03.06) with Firm fixed-price (COMAR 21.06.03.02)

<b>Contract Duration:</b>	3 years with no renewal options
<b>Primary Place of Performance:</b>	Charles H. Hickey, Jr. School
<b>SBR Designation or Preference:</b>	YES
<b>Federal Funding:</b>	NO

## TABLE OF CONTENTS – IFB

<b>1</b>	<b>Minimum Qualifications.....</b>	<b>9</b>
1.1	Bidder Minimum Qualifications.....	9
<b>2</b>	<b>Contractor Requirements: Scope of Work .....</b>	<b>10</b>
2.1	Summary Statement.....	10
2.2	Background and Purpose.....	10
2.3	Scope of Work Requirements.....	10
<b>3</b>	<b>Contractor Requirements: General.....</b>	<b>18</b>
3.1	Contract Initiation Requirements.....	18
3.2	End of Contract Transition .....	18
3.3	Invoicing.....	19
3.4	Liquidated Damages .....	20
3.5	Insurance Requirements .....	21
3.6	Security Requirement .....	22
3.7	Problem Escalation Procedure.....	24
3.8	SOC 2 Type 2 Audit Report .....	24
3.9	Minority Business Enterprise (MBE) Reports.....	24
3.10	Veteran Small Business Enterprise (VSBE) Reports .....	25
3.11	COVID-19 CDC Guidelines.....	25
3.12	Work Orders .....	25
3.13	Additional Clauses.....	25
<b>4</b>	<b>Procurement Instructions.....</b>	<b>27</b>
4.1	Pre-Bid Conference/Site Visit .....	27
4.2	eMaryland Marketplace Advantage (eMMA) .....	27
4.3	Questions .....	27
4.4	Procurement Method .....	28
4.5	Bid Due (Closing) Date and Time .....	28
4.6	Multiple or Alternate Bids.....	28
4.7	BPO as a Contract .....	28
4.8	Receipt, Opening and Recording of Bids .....	28
4.9	Confidentiality of Bids / Public Information Act Notice.....	29
4.10	Award Basis.....	29

4.11	Tie Bids .....	29
4.12	Duration of Bids .....	29
4.13	Revisions to the IFB .....	29
4.14	Cancellations .....	30
4.15	Incurred Expenses .....	30
4.16	Protest/Disputes .....	30
4.17	Bidder Responsibilities.....	30
4.18	Acceptance of Terms and Conditions.....	31
4.19	Bid/Proposal Affidavit.....	31
4.20	Contract Affidavit.....	31
4.21	Compliance with Laws/Arrearages .....	31
4.22	Verification of Registration and Tax Payment .....	31
4.23	False Statements .....	31
4.24	Payments by Electronic Funds Transfer .....	32
4.25	Prompt Payment Policy .....	32
4.26	Electronic Procurements Authorized .....	32
4.27	MBE Participation Goal .....	33
4.28	VSBE Goal .....	36
	There is no VSBE goal for this solicitation.....	36
4.29	Living Wage Requirements .....	36
4.30	Non-Disclosure Agreement .....	38
4.31	HIPAA - Business Associate Agreement .....	38
4.32	Nonvisual Access .....	38
4.33	Location of the Performance of Services Disclosure .....	38
4.34	Department of Human Services (DHS) Hiring Agreement.....	38
4.35	Small Business Reserve (SBR) Procurement .....	38
<b>5</b>	<b>Bid Format .....</b>	<b>41</b>
5.1	One Part Submission .....	41
5.2	Labeling.....	41
5.3	Bid Price Form .....	41
5.4	Required Bid Submission .....	41
5.5	Delivery .....	43
5.6	Documents Required upon Notice of Recommendation for Contract Award .....	43
<b>6</b>	<b>Bid Evaluation and Award .....</b>	<b>45</b>

6.1	Bid Evaluation Criteria.....	45
6.2	Reciprocal Preference.....	45
6.3	Award Determination .....	45
6.4	Documents Required upon Notice of Recommendation for Contract Award .....	45
<b>7</b>	<b>IFB ATTACHMENTS AND APPENDICES .....</b>	<b>46</b>
<b>Attachment A.</b>	<b>Pre-Bid Conference Response Form.....</b>	<b>49</b>
<b>Attachment B.</b>	<b>Bid Instructions &amp; Instructions &amp; Form.....</b>	<b>50</b>
<b>Attachment C.</b>	<b>Bid/Proposal Affidavit.....</b>	<b>51</b>
<b>Attachment D.</b>	<b>Minority Business Enterprise (MBE) Forms .....</b>	<b>52</b>
<b>Attachment E.</b>	<b>Veteran-Owned Small Business Enterprise (VSBE) Forms .....</b>	<b>53</b>
	<b>ATTACHMENT F. – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS.....</b>	<b>54</b>
<b>Attachment G.</b>	<b>Federal Funds Attachments.....</b>	<b>56</b>
<b>Attachment H.</b>	<b>Conflict of Interest Affidavit and Disclosure .....</b>	<b>57</b>
<b>Attachment I.</b>	<b>Non-Disclosure Agreement (Contractor) .....</b>	<b>58</b>
<b>Attachment J.</b>	<b>HIPAA Business Associate Agreement .....</b>	<b>59</b>
<b>Attachment K.</b>	<b>Mercury Affidavit.....</b>	<b>60</b>
<b>Attachment L.</b>	<b>- Location of the Performance of Services Disclosure.....</b>	<b>61</b>
<b>Attachment M.</b>	<b>Contract .....</b>	<b>62</b>
<b>Attachment N.</b>	<b>Contract Affidavit.....</b>	<b>80</b>
<b>Attachment O.</b>	<b>DHS Hiring Agreement.....</b>	<b>81</b>
<b>Appendix 1.</b>	<b>– Abbreviations and Definitions.....</b>	<b>82</b>
<b>Appendix 2–</b>	<b>Bidder Information Sheet .....</b>	<b>84</b>
<b>Appendix 3-</b>	<b>Company Profile .....</b>	<b>85</b>
<b>Appendix 4.</b>	<b>– Quarterly Vendor Performance Report .....</b>	<b>90</b>
<b>Appendix 5</b>	<b>– Small Business Contract Affidavit.....</b>	<b>91</b>
<b>Appendix 6</b>	<b>– Equipment List .....</b>	<b>94</b>

## 1 Minimum Qualifications

### 1.1 Bidder Minimum Qualifications

To be considered reasonably susceptible of being selected for award, the Bidder must document in its Bid that the following Minimum Qualifications have been met:

1.1.1 The Bidder shall have:

- a) A valid State of Maryland HVAC /HVACR Master or Journeyman License.
- b) A Water System Operator Certification issued by the Maryland Department of Environment.

Required Documentation: As proof of meeting these requirements, the Bidder shall provide with its bid, copies of current aforementioned licenses and certifications.

1.1.2 A minimum of three (3) consecutive years within the last ten (10) years providing successful HVAC, boiler maintenance and water treatment services comparable in scope, type, size, magnitude, and complexity as described in this IFB.

Required Documentation: As proof of meeting these requirements, the Bidder must provide with its bid three (3) letters of reference that attest to the Bidder's experience in providing the services in scope, type, size, magnitude and complexity comparable to those described in this IFB within the past ten (10) years. Each letter of reference must include the name and complete address of the business or company;

- a) Name of the contact person, email address, and current phone number;
- b) Term and length of each contract;
- c) Size and type of facility (square footage);
- d) Type of services provided; and
- e) Contract value.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## 2 Contractor Requirements: Scope of Work

### 2.1 Summary Statement

- 2.1.1 The Department of Juvenile Services (DJS or Department) is issuing this Invitation for Bids (IFB) in order to procure a contractor to provide HVAC, boiler maintenance and water treatment services at the Charles H. Hickey, Jr. School (Hickey) located at 9700 Old Harford Road Baltimore, Maryland 21224.
- 2.1.2 It is the State's intention to obtain a Contractor to provide HVAC, boiler maintenance and water treatment services as specified in this IFB, from a Contract between the selected Bidder and the State. The anticipated duration of the services to be provided under this Contract is three (3) years.
- 2.1.3 The Department intends to make a single award as a result of this IFB. See **Section 4.10 Award Basis** for Contract award information.
- 2.1.4 A Bidder, either directly or through its subcontractor(s), must be able to provide all goods and services and meet all of the requirements and the successful Bidder (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.

### 2.2 Background and Purpose

- 2.2.1 The Department is an executive agency whose primary task is to appropriately manage, supervise, and treat youth who are involved in the juvenile justice system in Maryland. The Maintenance Department is responsible for maintenance at all DJS facilities and for developing policies and procedures for the overall maintenance, repair, janitorial, and for over 42 DJS facilities and offices across the State. Through this solicitation, the Department is seeking a contractor to provide complete preventive maintenance and repair services of the HVAC, boiler maintenance, and water treatment services at Hickey. Hickey is a secure detention facility that houses male youth. While there, youth are afforded access to dietary, medical, educational and counseling services as well as space for recreation.
- 2.2.2 The HVAC and boiler maintenance services contemplated under this solicitation include central air conditioning systems, heating, boilers, air handlers, domestic hot water systems, and water treatment systems equipment maintenance, repairs and installation at Hickey.

### 2.3 Scope of Work Requirements

#### 2.3.1 HVAC Full Preventive Maintenance and Emergency Services

The Contractor shall provide Preventive Maintenance and Emergency services on all boilers (steam and hot water), burners, circulator pumps, return pumps and condensate tanks, valves, steam hot water heaters, domestic hot water heaters, air handling units, compressors and fan coil units, condensers, and their associated electrical and systematic and pneumatic controls and water treatment systems as follows:

- 2.3.1.1 Work shall include, but is not to be limited to all motors, water treatment tanks and pumps, chemicals, and supplying and changing of unit filters and belts.
- 2.3.1.2 Furnish all supplies, materials, labor, supervision, tools, equipment, insurance, and permits.
- 2.3.1.3 Maintain equipment at optimum efficiency in accordance with manufacturers' recommendations. A chart of the equipment to be maintained at each building is provided in **Appendix 6 – Equipment List**.

**2.3.1.4** Within thirty (30) days of award, inspect all of the equipment and submit via email an **Inspection List** of all repairs needed and the cost of the repairs to the DJS Contract Monitor.

2.3.1.5 The Department reserves the right to solicit separate bids for any repairs needed over \$2,500.00.

## **2.3.2 Types of Maintenance**

For purposes of this solicitation, the following words have the meaning as defined:

### **2.3.2.1 Preventive Maintenance**

Preventive maintenance is defined as quarterly scheduled work to provide systematic checking, adjustment, cleaning, and routine services as recommended by the equipment manufacturer. This includes examination, lubrication, filters, adjustment, calibration of parts including, but not limited to: belts, bearings, capacity and safety devices, check valves, condensate pumps, coils, control transformers, control wiring, dampers, electrodes, all filters, fuses, environmental controls, fans, motors and motor starters, pressure controls, compressors, refrigerant filters drier, refrigerant piping relays and all necessary maintenance required to keep the units in proper and continuous operation. Parts and labor that are part of a preventive maintenance program, as recommended by the equipment manufacturer, routine testing and inspecting equipment to reduce or avoid service interruptions and to obtain optimum operating efficiency and maximum life expectancy of equipment are included in the Contract. All Preventive maintenance shall be in strict compliance with the relevant equipment manufacturers' recommendations. All work performed by the Contractor shall meet local, State, and federal codes and standards and be performed under the Contractor's license, if applicable. Preventive maintenance includes developing and recording equipment and system performance and inspection data for operation analysis and anticipated corrective action. Preventative maintenance includes all labor and parts paid by the Contractor.

### **2.3.2.2 Emergency Maintenance**

- A. Emergency maintenance is defined as unscheduled work that requires immediate action to restore equipment or system operations to correct mechanical problems that will cause imminent interruption of operations or will cause damage to operating equipment. Parts and labor will be paid by the contractor up to \$500.00 per incident for parts and \$500.00 per incident for labor.
- B. In the event of equipment failure, or imminent failure or damage to equipment or system that occurs outside of the regular working hours of the facility. The Contractor shall be on-site with a qualified maintenance mechanic two (2) hours after the Contractor has been given notification of the emergency situation. Service response shall be sufficient to restore the equipment or system to a fully or temporary operational status at no additional cost to the State. If temporary measures are taken to restore operation, then permanent repair service shall be completed within five (5) working days.
- C. Under no circumstances shall equipment or system failure that results in loss of essential service exceed forty-eight (48) hours. Inability to obtain parts or special technical or engineering services will not be considered reason to extend this time period.

- D. Emergency maintenance shall be available twenty-four hours of the day, every day and week of the year throughout the Contract term. Contractor must submit a phone number with 24-hour availability in their proposal.
- E. Failure of the Contractor to provide emergency maintenance within the stated time frames may be cause to consider the Contractor in default of the Contract by the Procurement Officer.
- F. **Repair and replacement parts for emergencies chargeable to the State will be invoiced at part(s) cost plus 15% for handling and profit.** The State reserves the right to audit the Contractor's invoices in order to verify the cost price for said parts. The Contractor must purchase parts from the least costly source. Freight charges will be billed to the State. The invoice shall contain the necessary breakdown of costs with back up documentation. **Repairs under Emergency Maintenance shall be paid as follows: The Contractor is responsible for costs for labor and parts up to \$1,000.00, per incident. The Contractor will invoice the State for costs in excess of \$1,000.00, per incident, based on the price.**

#### 2.3.2.3 Major Repairs and Replacement

- A. Major repairs is defined as any scheduled repairs that require shut down of equipment to make the repairs or involved replacement of parts that exceeds \$1,000 per incident for labor and parts combined. The Contract Monitor should be notified.
- B. Major repairs may be excluded from the scope of the Contract at the discretion of the State. However, the State may direct the Contractor to perform a major repair and the Contractor will be bound to the price in the Contract. Freight charges will be billed to the State. The invoice shall contain the necessary breakdown of costs with back up documentation. **The State will reimburse the Contractor for the cost for part(s) plus 15% profit.**
- C. **The State will reimburse the Contractor for labor, based on the price in the Contract, and parts combined for major repairs that exceed \$1,000.00.**
- D. The State reserves the right to seek competitive bids for any major repairs as may be required during the term of the Contract. The Contractor shall work cooperatively with any other Contractor the State may have to perform any major repairs.

#### 2.3.2.4 Minor Repairs

- A. Minor repairs is defined as repairs that are relatively small in scope and cost and do not have significant implications for performance and budget resources. Minor repairs are within the scope of services to be provided under the contract. The Contractor must provide all labor to make minor repairs at no additional cost to the State.
- B. When performing minor repairs, the Contractor shall replace all parts necessary to restore equipment to complete operational service. Use of the term "parts" is intended to imply the smallest part which effectively and completely accomplishes needed repairs. In cases where the overall cost or critical time frame may be served by replacing a large part, the DJS Contract Monitor shall exercise his right to decide on the desired approach.

**Repair and replacement parts charged to the State will be invoiced at parts cost plus 15% for handling and profit.**

2.3.2.5 Material and Parts

Unless otherwise directed, the Contractor shall furnish and install all parts (those paid by the State and those paid by the Contractor) for Preventive Maintenance, Minor Repairs and Emergency Repairs in accordance with the specifications herein. A copy of the manufacturers' invoices to the Contractor shall be submitted with invoices for payment. The Contractor shall provide replacement parts from the original manufacturers or substitute parts approved by the original manufacturers. **The State shall pay all parts expenses, except those required for the preventive maintenance services and minor repairs combined with labor under \$1,000.00 per incident, at Contractor's cost plus 15% profit.** Freight charges will be billed direct to the State and the State shall reimburse the Contractor for the full amount of the freight expense. The invoices shall contain the necessary breakdown of costs with back up documentation.

2.3.2.6 Contractor's Responsibility

- A. **Contractor shall be responsible for all labor and parts (filters, oil, belts, etc.) combined for preventive maintenance, emergency services and minor repairs under \$1,000.00, per incident.**
- B. The State reserves the right to purchase any necessary part(s) to be installed by the Contractor for any repairs directly from other sources.
- C. **Part cost and/or labor in excess of \$1,000.00 per incident is considered a Major Repairs.** The State reserves the right to seek competitive bids for the purchase of any needed part considered a Major Repair over \$2500.00 per incident. The Contractor shall work cooperatively with any contractor(s) hired by the State.
- D. When performing repairs, the Contractor shall replace all parts necessary to restore equipment to complete operational service. Use of the term "parts" is intended to imply the smallest part, which effectively and completely accomplishes needed repair. In cases where the overall cost or critical timeframe may be served by replacing a larger part, the Contract Monitor or DJS designee shall make the decision regarding the approach.

2.3.2.7 State's Responsibility

- A. The State reserves the right to audit the Contractor's invoices in order to verify the cost price for parts. **The State shall reimburse the Contractor at cost plus 15% profit for part cost only.** The Contractor shall submit documentation for part(s) cost with invoice for reimbursement. Payment will not be made to the Contractor without the backup documentation.
- B. The State reserves the right to purchase directly from other sources any necessary part(s) to be installed by the Contractor.
- C. **Part cost and/or labor in excess of \$1,000.00 per incident is considered a Major Repairs.** The State reserves the right to seek competitive bids for the purchase of any needed part considered a Major Repair. The Contract awardee shall work cooperatively with any contractor hired by the State.

**2.3.3 Water Treatment Services (this is the only portion of the Scope of Work that the Contractor may subcontracted.**

- 2.3.3.1 Water treatment services are designed to control and inhibit corrosion, pitting scale formation and biological growth on the metal surfaces in continuous contact with water in accordance with the safety standard of the State and federal OSHA guidelines for the Department.
- 2.3.3.2 Water treatment services is the only portion of the Scope of Work that may be subcontracted. If subcontracting this portion of the Scope of Work, the Contractor shall ensure the subcontractor receives a copy of these specifications. Subcontractor(s) shall also meets minimum qualifications. The Contractor is responsible for any work that is subcontracted.

The Contractor shall:

- 2.3.3.3 Furnish and provide complete water treatment services which include all labor, materials, equipment, supervision, permits and insurance, transportation, services, monthly routine visits, the maintaining adjustment of chemical feed and controller/bleed equipment, application of chemicals, obtaining and analyzing samples, monthly reports, testing and recording of water treatment; and maintain materials safety data sheets of the equipment, etc. necessary to maintain the application or chemical water treatment program for all of the heating ventilation and air conditioning systems.
- 2.3.3.4 Ensure the technicians possess all appropriate class 1, 2, 3, 4 or 5 water treatment certifications, to provide the water treatment services. A copy of the certifications shall be submitted with the bid.
- 2.3.3.5 Follow the water treatment schedule for the required heating system and equipment identified at the Pre-Bid Conference and Site Visit as indicated in the Key Information Summary Page.
- 2.3.3.6 The water treatment contractor shall provide necessary services to treating systems and equipment when being initially placed in service and when being taken out of service or deactivated.
- 2.3.3.7 Provide and maintain the chemical feed and bleed off equipment.
- 2.3.3.8 Submit to the DJS Facility Contract Monitor a written report of any repair and/or replacement history by email. This report is to be completed each month during the Contractor's scheduled visit.
- 2.3.3.9 Visit the facility monthly to maintain proper chemical concentrations based upon normal system. Provide water treatment chemical needed to maintain the proper chemical concentration based upon normal system operations.
- 2.3.3.10 Provide on the 15<sup>th</sup> of each month a written report of the analysis of water to include a minimum the lab reading and amount of chemicals used based on manufacturer recommendations via email to the DJS Facility Maintenance Supervisor as described in Section 2.3.4.

- 2.3.3.11 Provide test and Records for Water Treatment via email to the DJS Facility Maintenance Supervisor.

All tests and records maintained shall include but are not limited to the following:

- A. Total chemicals consumed;
- B. pH value of make-up water;
- C. pH value of boiler water;
- D. chloride concentrations of make-up water in ppm;
- E. chloride concentrations of boiler water in ppm; and
- F. pH shall be maintained between 8.0 - 10.0 range in a closed loop system.

- 2.3.3.12 Be present each time equipment is opened for inspection and provide a written report on observed conditions indicating the effectiveness of the treatment program.

- 2.3.3.13 Provide necessary service to treating systems and equipment when being initially placed in service and when being taken out of service or deactivated.

**2.3.3.14 Water Treatment Analysis**

The Contractor shall perform the following tests and analysis where applicable, at each monthly visit:

- A. Test the hot water boiler and closed loop hot water systems:  
Boiler Water - appropriate tests depending on the treatment chemicals.
- B. Test the Domestic water systems:  
Chemical: n/a, TDS, hardness, iron, silica and pH.
- C. Test each boiler water treatment program such that scale formation is prevented, corrosion of feed water piping, boiler metal is minimized, and any sludge formed in the boiler dispersed.
- D. The following samples and tests will be performed on each monthly visit: pH value, Total Alkalinity, Hydrate Alkalinity, Chloride, Chelant, Sulfite, Conductivity, Silica, Total Dissolved Solids (TDS), Total Hardness and Iron.
- E. Provide a separate report properly labeled for each treatment system at the facility, via email to the Maintenance Supervisor, on the 15<sup>th</sup> of each month. Each report shall include:
  - 1. appropriate data
  - 2. test results
  - 3. address other major problem areas associated with water quality and equipment problems including:
    - a. scale formation
    - b. corrosion
    - c. fouling
    - d. foaming
    - e. caustic embrittlement
  - 4. a section indicating the following:
    - a. chemical introduction
    - b. chemical dosages
    - c. recommended limits to be maintained
    - d. recommendations
    - e. comments

**2.3.3.15 Water Treatment Chemicals and Chemical Programs:**

- A. All chemicals used must have been awarded an EPA (Environmental Protection Agency) registration number and each shall be registered with the local Health Department and the Maryland Department of Health.
- B. The treatment program shall consist of the latest state of the art materials and methods to produce the very best results possible.
- C. The Contractor shall maintain the area around the chemical addition station in a clean and safe manner and remove all spills or overflows to prevent damage to floor coating. No chemicals may be stored on site without the appropriate Maintenance Supervisor's permission.

**2.3.3.16 Systems to be treated**

**A. Heating System**

The Contractor shall provide a chemical treatment program that will maintain the water quality of the system within plus or minus ten percent (10%) of the following parameters:

- |                           |               |
|---------------------------|---------------|
| 1. Total Dissolved Solids | 250 -1700ppm  |
| 2. Sodium Nitrite         | 250 – 1500ppm |
| 3. pH                     | 8.5 – 10.0    |
| 4. Organic Growths        | NONE          |

**2.3.4 Reports**

The Contractor shall submit reports to the DJS Contract Monitor or each visit to the facility whether for preventive, repair or emergency maintenance services. The service reports shall be prepared in sufficient detail and description to identify the date, equipment location and specific work performed. The DJS Maintenance Supervisor will review the work with the service personnel and sign the service report to acknowledge satisfactory completion of the work as described.

**Table 1 – Report List**

<b>ID #</b>	<b>Report Description</b>	<b>Acceptance Criteria</b>	<b>Due Date / Frequency</b>
2.3.1.4	Inspection List	Via email in Microsoft Word	30 days after award.
2.3.2.3	Repair/Replacement History Report	Via email in Microsoft Word	Each month during the monthly visit
2.3.3.11	Water Treatment Test and Records	Via email in Microsoft Word	Each month during the monthly visit
2.3.3.14	Water Treatment Analysis Report	Via email in Microsoft Word	Each month during the monthly visit

**Note: A separate log must be maintained for preventive, major, minor and emergency maintenance services each time the Contractor or his HVAC mechanics perform work at the facility.**

**2.3.5 Reductions for Non-Performance or Failure to Meet Standards**

The following reductions shall be used in adjusting the Contractor's invoice when the Contractor fails to perform any services required in these specifications or performs any task below the standards as required in these specifications

- 2.3.5.1 First occurrence - written documentation notice from the Contract Monitor to the Contractor.

2.3.5.2 Second occurrence - written documentation and deduction of 1/60th of monthly invoice amount.

2.3.5.3 Third occurrence - written documentation and deduction of 1/30th of monthly invoice amount.

2.3.5.4 Reductions for “No Shows” may be based on the normal number of Contractor’s personnel assigned to the building multiplied by the hours normally worked by the Contractor.

2.3.5.5 Reductions for below standards work may be made if, after the second documented notification, the Contractor has not corrected the deficiency and State workers are assigned to perform the task. Reductions will be based on the hourly wage rate of the State employee assigned to perform the task times the hour/hours required for State workers to perform the task.

2.3.5.6 Reductions for non-performance may be made if the task was not done and State workers have to be assigned immediately to perform the task. Reductions will be based on the hourly wage rate of the State employee assigned to perform the task times the hour/hours required for State workers to perform the task.

2.3.5.7 The referenced conditions (examples) may result in Termination of Contract for Default by the Procurement Officer.

#### **2.3.6 Disputes Arising from Reductions**

The Contract Monitor will review all documentation, evidence and arguments of the Contractor and the Director of Maintenance and make a written determination as to the validity of the reduction within seven (7) days of receiving the appeal from the Contractor.

2.3.6.1 Should the Contractor dispute the validity of a reduction determination made by the Assistant Deputy Director of the Facility, the Contractor may appeal the reduction to the Deputy Director of Facility Maintenance within seven (7) calendar days of receiving notice of the reduction.

2.3.6.2 The Deputy Director of Facility Maintenance will review the reduction and make a written determination as to its validity within seven (7) days of the receipt of the appeal from the Contractor.

2.3.6.3 Should the Contractor disagree with the decision of the Deputy Director of Facility Maintenance, the Contractor may appeal the Deputy Director of Facility Maintenance’s decision to the Director of Maintenance within seven (7) calendar days of the receipt of the Contract Monitor decision.

**THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK**

### 3 Contractor Requirements: General

#### 3.1 Contract Initiation Requirements

Contractor shall schedule and hold a kickoff meeting within 10 Business Days of NTP Date. At the kickoff, the Contractor shall furnish an updated schedule describing the duties for the Contractor, the State, and any third parties.

#### 3.2 End of Contract Transition

- 3.2.1 The Contractor shall provide transition assistance as requested by the State to facilitate the orderly transfer of services to the State or a follow-on contractor, for a period up to 60 days prior to Contract end date, or the termination thereof. Such transition efforts shall consist, not by way of limitation, of:
- a) Providing additional services and support as requested to successfully complete the transition;
  - b) Maintaining the services called for by the Contract at the required level of proficiency;
- 3.2.2 The Contractor shall work toward a prompt and timely transition, proceeding in accordance with the directions of the Contract Monitor. The Contract Monitor may provide the Contractor with additional instructions to meet specific transition requirements prior to the end of the Contract.
- 3.2.3 The Contractor shall ensure that all necessary knowledge and materials for the tasks completed are transferred to the custody of State personnel or a third party, as directed by the Contract Monitor.
- 3.2.4 The Contractor shall support end-of-Contract transition efforts with technical and project support to include but not be limited to:
- a) The Contractor shall provide a draft Transition-Out Plan 120 Business Days in advance of Contract end date.

The Transition-Out Plan shall address at a minimum the following areas:

- 1) Any staffing concerns/issues related to the closeout of the Contract;
- 2) Communications and reporting process between the Contractor, the Department and Contract Monitor;
- 3) Plans to complete tasks and any unfinished work items (including open change requests, and known issues); and
- 4) Any final training/orientation of Department staff;
- 5) Connectivity services provided, activities and approximate timelines required for Transition-Out;
- 6) Knowledge transfer, to include:
  - a) A working knowledge of the current system environments;
  - b) Review with the Department the procedures and practices that support the current system;
- 7) Any risk factors with the timing and the Transition-Out schedule and transition process. The Contractor shall document any risk factors and suggested solutions.

### 3.3 Invoicing

#### 3.3.1 General

- a) The Contractor shall send OR e-mail the original of each invoice and signed authorization to invoice to the Contract Monitor at the following address:

Department of Juvenile Services  
Central Region Accounts payables  
9702A Old Harford Road  
Baltimore, MD 21234  
djs.centralap@maryland.gov

The Contractor shall ensure that all invoices are accurate at the time of submission.

An invoice not satisfying the requirements of a Proper Invoice (as defined in COMAR 21.06.09) cannot be processed for payment. To be considered a Proper Invoice, invoices must include the following information, without error:

- 1) Contractor name and address;
- 2) Remittance address;
- 3) Federal taxpayer identification (FEIN) number, social security number, as appropriate;
- 4) Invoice period (i.e. time period during which services covered by invoice were performed);
- 5) Invoice date;
- 6) Invoice number;
- 7) State assigned Contract number;
- 8) State assigned (Blanket) Purchase Order number(s);
- 9) Goods or services provided;
- 10) Amount due; and
- 11) Any additional documentation required by regulation or the Contract.

Invoices that contain both fixed price and time and material items shall clearly identify each item as either fixed price or time and material billing.

- b) The Department reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Department with all required deliverables within the timeframes specified.

Any action on the part of the Department, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.04.

The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Contractor, however, is not exempt from such sales, use taxes, and may be liable for the same.

Invoices for final payment shall be clearly marked as “FINAL” and submitted when all work requirements have been completed and no further charges are to be incurred under the Contract. In no event shall any invoice be submitted later than 60 calendar days from the Contract termination date.

### **3.3.2 Invoice Submission Schedule**

The Contractor shall submit invoices in accordance with the following schedule:

For items of work see **Attachment B**–Bid Form, those items shall be billed in equal monthly installments for the applicable Contract year in the month following the performance of the services.

### **3.3.3 Deliverable Invoicing**

Deliverable invoices shall be accompanied by notice(s) of acceptance issued by the State for all invoices submitted for payment. Payment of invoices will be withheld if a signed DPAF is not submitted (see online example at [http://doit.maryland.gov/contracts/Documents/\\_procurementForms/DeliverableProductAcceptanceForm-DPAFsample.pdf](http://doit.maryland.gov/contracts/Documents/_procurementForms/DeliverableProductAcceptanceForm-DPAFsample.pdf)).

Payment for deliverables will only be made upon completion and acceptance of the deliverables as defined in **Section 2**.

### **3.3.4 For the purposes of the Contract, an amount will not be deemed due and payable if:**

- a) The amount invoiced is inconsistent with the Contract;
- b) The proper invoice has not been received by the party or office specified in the Contract;
- c) The invoice or performance is in dispute or the Contractor has failed to otherwise comply with the provisions of the Contract;
- d) The item or services have not been accepted;
- e) The quantity of items delivered is less than the quantity ordered;
- f) The items or services do not meet the quality requirements of the Contract;
- g) If the Contract provides for progress payments, the proper invoice for the progress payment has not been submitted pursuant to the schedule;
- h) If the Contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have not been met; or
- i) The Contractor has not submitted satisfactory documentation or other evidence reasonably required by the Procurement Officer or by the Contract concerning performance under the Contract and compliance with its provisions.

### **3.3.5 Travel Reimbursement**

Travel will not be reimbursed under this IFB.

### **3.3.6 Retainage**

Retainage does not apply to this IFB.

## **3.4 Liquidated Damages**

### **3.4.1 MBE Liquidated Damages**

MBE liquidated damages are identified in Attachment MCH. (The Contract)

### 3.4.2 Liquidated Damages other than MBE

THIS SECTION IS INAPPLICABLE TO THIS IFB.

## 3.5 Insurance Requirements

The Contractor shall maintain, at a minimum, the insurance coverages outlined below or any minimum requirements established by law if higher, for the duration of the Contract, including option periods, if exercised:

3.5.1 The following type(s) of insurance and minimum amount(s) of coverage are required:

- a) Commercial General Liability - limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage, and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$3,000,000 aggregate.
- b) Fidelity Bond – A company approved by the Maryland Insurance Commissioner to issue such bonds in Maryland shall bond Contractor's employees. The bond or bonds shall protect the State against loss by theft of money or other property from the premises to which the State or others may sustain as a result of any fraudulent or dishonest act of Contractor's employee, acting alone or in collusion with others, during the term of the contract. Said bond or bonds shall have a limit of \$2,500 per occurrence, per employee. Contractor must deliver said bond or bonds to the State no later than time of award.
- c) Worker's Compensation - The Contractor shall maintain such insurance as necessary and/or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
- d) Automobile or Commercial Truck Insurance - The Contractor shall maintain Automobile or Commercial Truck Insurance (including owned, leased, hired, and non-owned vehicles) as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered, but in no case less than those required by the State of Maryland.
- e) The State shall be listed as an additional insured on the faces of the certificates associated with the coverages listed above, including umbrella policies, excluding Workers' Compensation Insurance and professional liability. **On the Certificate of Liability, the "DESCRIPTION OF OPERATIONS" shall read as follows:**

**HVAC SERVICES at the CHARLES HICKEY SCHOOL. THE STATE OF MARYLAND IS INCLUDED AS AN ADDITIONAL INSURED SOLELY WITH RESPECT TO THE OPERATIONS AND ACTIVITIES OF THE NAMED INSURED. 21-MX-H01**

3.5.2 All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Monitor, by certified mail, not less than 45 days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Monitor receives a notice of non-renewal, the Contractor shall provide the Contract Monitor with an insurance policy from another carrier at least 30 days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies. Any insurance furnished as a condition of the Contract shall be issued by a company authorized to do business in the State.

- 3.5.3 The recommended awardee must provide current certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this section within five (5) Business Days from notice of recommended award. During the period of performance for multi-year contracts, the Contractor shall provide certificates of insurance annually or as otherwise directed by the Contract Monitor.
- 3.5.4 The Contractor shall require any subcontractors to obtain and maintain comparable levels of coverage and shall provide the Contract Monitor with the same documentation as it is required of the Contractor.

### **3.6 Security Requirement**

The following requirements are applicable to the Contract:

#### **3.6.1 Employee Identification**

- a) Contractor Personnel shall display his or her company ID badge in a visible location at all times while on State premises. Upon request of authorized State personnel, each Contractor Personnel shall provide additional photo identification.
- b) Contractor Personnel shall cooperate with State site requirements, including but not limited to, being prepared to be escorted at all times, and providing information for State badge issuance.
- c) Contractor shall remove any Contractor Personnel from working on the Contract where the State determines, in its sole discretion that Contractor Personnel has not adhered to the Security requirements specified herein.
- d) The State reserves the right to request that the Contractor submit proof of employment authorization of non-United States Citizens, prior to commencement of work under the Contract.

#### **3.6.2 Security Clearance / Criminal Background Check**

- a) A criminal background check must be done for all Contractor Personnel providing on-site OR any list specific services in the facility.
- a) The Contractor shall obtain at its own expense a Criminal Justice Information System (CJIS) State and federal criminal background check, including fingerprinting, for all Contractor Personnel listed in sub-paragraph A. This check may be performed by a public or private entity.
- b) Persons with a criminal record may not perform services under the Contract unless prior written approval is obtained from the Contract Monitor. The Contract Monitor reserves the right to reject any individual based upon the results of the background check. Decisions of the Contract Monitor as to acceptability of a candidate are final. The State reserves the right to refuse any individual Contractor Personnel to work on State premises, based upon certain specified criminal convictions, as specified by the State.
- c) The CJIS criminal record check of each Contractor Personnel who will work on State premises shall be reviewed by the Contractor for convictions of any of the following crimes described in the Annotated Code of Maryland, Criminal Law Article:
  - 1) §§ 6-101 through 6-104, 6-201 through 6-205, 6-409 (various crimes against property);
  - 2) any crime within Title 7, Subtitle 1 (various crimes involving theft);

- 3) §§ 7-301 through 7-303, 7-313 through 7-317 (various crimes involving telecommunications and electronics);
  - 4) §§ 8-201 through 8-302, 8-501 through 8-523 (various crimes involving fraud);
  - 5) §§9-101 through 9-417, 9-601 through 9-604, 9-701 through 9-706.1 (various crimes against public administration); or
  - 6) a crime of violence as defined in CL § 14-101(a).
- d) Contractor Personnel with access to systems supporting the State or to State data who have been convicted of a felony or of a crime involving telecommunications and electronics from the above list of crimes shall not be permitted to work on State premises under the Contract; Contractor Personnel who have been convicted within the past five (5) years of a misdemeanor from the above list of crimes shall not be permitted to work on State premises.
- e) A particular on-site location covered by the Contract may require more restrictive conditions regarding the nature of prior criminal convictions that would result in Contractor Personnel not being permitted to work on those premises. Upon receipt of a location's more restrictive conditions regarding criminal convictions, the Contractor shall provide an updated certification regarding the Contractor Personnel working at or assigned to those premises.

### **3.6.3 On-Site Security Requirement(s)**

- a) For the conditions noted below, Contractor Personnel may be barred from entrance or leaving any site until such time that the State's conditions and queries are satisfied.
- 1) Contractor Personnel may be subject to random security checks when entering and leaving State secured areas. The State reserves the right to require Contractor Personnel to be accompanied while in secured premises.
  - 2) Some State sites, especially those premises of the Department of Public Safety and Correctional Services, require each person entering the premises to document and inventory items (such as tools and equipment) brought onto the site, and to submit to a physical search of his or her person. Therefore, Contractor Personnel shall always have available an inventory list of tools being brought onto a site and be prepared to present the inventory list to the State staff or an officer upon arrival for review, as well as present the tools or equipment for inspection. Before leaving the site, the Contractor Personnel will again present the inventory list and the tools or equipment for inspection. Upon both entering the site and leaving the site, State staff or a correctional or police officer may search Contractor Personnel. Depending upon facility rules, specific tools or personal items may be prohibited from being brought into the facility.
- b) Any Contractor Personnel who enters the premises of a facility under the jurisdiction of the Department of Juvenile Services may be searched, fingerprinted (for the purpose of a criminal history background check), photographed and required to wear an identification card issued by the Department of Juvenile Services.
- c) Further, Contractor Personnel shall not violate Md. Code Ann., Criminal Law Art. Section 9-410 through 9-417 and such other security policies of the agency that control the facility to which the Contractor Personnel seeks access. The failure of any of the Contractor Personnel to comply with any provision of the Contract is sufficient grounds for the State to terminate the Contract for default.

### 3.7 Problem Escalation Procedure

- 3.7.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.
- 3.7.2 The Contractor shall provide contact information to the Contract Monitor, as well as to other State personnel as directed should the Contract Monitor not be available.
- 3.7.3 The Contractor shall provide the PEP no later than ten (10) Business Days after notice of recommended award or after the date of the Notice to proceed, whichever is earlier. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance, which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:
- a) The process for establishing the existence of a problem;
  - b) Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
  - c) For each individual listed in the Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;
  - d) Expedited escalation procedures and any circumstances that would trigger expediting them;
  - e) The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;
  - f) Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and
  - g) A process for updating and notifying the Contract Monitor of any changes to the PEP.
- 3.7.4 Nothing in this section shall be construed to limit any rights of the Contract Monitor or the State, which may be allowed, by the Contract or applicable law.

### 3.8 SOC 2 Type 2 Audit Report

A SOC 2 Type 2 Report is not a Contractor requirement for this Contract.

### 3.9 Minority Business Enterprise (MBE) Reports

If this solicitation includes an MBE Goal, the Contractor shall:

- a) Submit the following reports by the 10th of each month to the Contract Monitor and the Department's MBE Liaison Officer:
  - 1) A Prime Contractor Paid/Unpaid MBE Invoice Report (Attachment D-4A) listing any unpaid invoices, over 45 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made; and
  - 2) (If Applicable) An MBE Prime Contractor Report (Attachment D-4B) identifying an MBE prime is self-performing work to be counted towards the MBE participation goals.

- b) Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit an MBE Subcontractor Paid/Unpaid Invoice Report (**Attachment D-5**) by the 10th of each month to the Contract Monitor and the Department's MBE Liaison Officer that identifies the Contract and lists all payments to the MBE subcontractor received from the Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amounts of those invoices.
- c) Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, type of work performed by each, and actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
- d) Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after completion of the Contract.
- e) Upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

### **3.10 Veteran Small Business Enterprise (VSBE) Reports**

This solicitation does not include a VSBE goal

### **3.11 COVID-19 CDC Guidelines**

- 3.11.1 For the duration of the COVID-19 pandemic, the Contractor and its personnel must follow safety precautions protocols using Personal Protective Equipment (PPE).
- 3.11.2 All Contractor personnel who have been potentially exposed to the virus must leave the site and not return until they can submit evidence of a negative COVID-19 test result. The Contract Monitor or designee must require the personnel to provide documentation of the negative test result before the personnel be permitted to return to the site.

### **3.12 Work Orders**

THIS SECTION IS INAPPLICABLE TO THIS IFB.

### **3.13 Additional Clauses**

#### **3.13.1 No-Cost Extensions**

In accordance with BPW Advisory 1995-1 item 7.b, in the event there are unspent funds remaining on the Contract, prior to the Contract's expiration date the Procurement Officer may modify the Contract to extend the Contract beyond its expiration date for a period up to, but not exceeding, one-third of the base term of the Contract (e.g., eight-month extension on a two-year contract) for the performance of work within the Contract's scope of work. Notwithstanding anything to the contrary, no funds may be added to the Contract in connection with any such extension.

**3.13.2 Prison Rape Elimination Act (PREA)**

- a) Pursuant to Prison Rape Elimination Act (PREA) Juvenile Facility Standards §115.387 and §115.388, the Department is mandated to collect data for every allegation of sexual abuse occurring in its facilities. This data must include, at a minimum, the data required to answer all questions from the most recent version of the Survey of Sexual Victimization conducted by the Department of Justice Bureau of Statistics. Additionally, the Department is required to obtain incident-based and aggregate data from contracted private providers. A copy of the federal PREA law, Public Law 108-79, codified as 42 USC 15601 can be found on the following website:  
<http://www.gpo.gov/fdsys/pkg/PLAW-108publ79/pdf/PLAW-108publ79.pdf>.
- b) The Contractor and any staff working at any facility under this IFB shall review the Elimination and Reporting of Sexual Abuse and Harassment-PREA Juvenile Facility Standards Compliance Policy NUMBER: RF-701-18, complete and sign the PREA disclosure form and the policy acknowledgement page.2 within ten (10) business days upon recommendation for contract award and then annually no later than July 10<sup>th</sup> of each year to the Contract Monitor.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## 4 Procurement Instructions

### 4.1 Pre-Bid Conference/Site Visit

- 4.1.1 A Pre-Bid/Site Visit conference (Conference) will be held at the date, time, and location indicated on the Key Information Summary Sheet.
- 4.1.2 A site visit has been pre-scheduled for **Wednesday August 25, 2021** beginning at **9:00 am** Local Time, at Charles H. Hickey, Jr. School located at 9700 Old Harford RD, Building #8, Baltimore, MD 21234. All prospective Bidders are encouraged to attend in order to facilitate better preparation of their Bids.
- At the scheduled Pre-Bid Conference/Site Visit, Bidders will be permitted to examine the buildings, familiarize themselves with the full nature and extent of the work and obtain answers to questions about or clarifications of the requirements of the contract. It is the sole responsibility of the Bidder to familiarize themselves fully with the buildings and the contents of the specifications of this solicitation. Failure to do so does not relieve the successful Bidder from their obligation to comply with all aspects of this Bid package for the amount he/she specifies as his/her bid.
- 4.1.3 Attendance at the Conference is not mandatory, but all interested parties are encouraged to attend in order to facilitate better preparation of their Bids. If the solicitation includes an MBE goal, failure to attend the Conference will be taken into consideration as part of the evaluation of a bidder's good faith efforts if there is a waiver request.
- 4.1.4 It is highly recommended that ALL Prime Contractors bring their intended subcontractors to the Conference to ensure that all parties understand the requirements of the contract and the MBE Goal.
- 4.1.5 MBE subcontractors are encouraged to attend the Conference to market their participation to potential prime contractors.
- 4.1.6 Following the Conference, the attendance record and summary of the Conference will be distributed via the same mechanism described for amendments and questions (see Section 4.2.1 eMMA).

### 4.2 eMaryland Marketplace Advantage (eMMA)

- 4.2.1 eMMA is the electronic commerce system for the State of Maryland. The IFB, Conference summary and attendance sheet, Bidders' questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be made available via eMMA.
- 4.2.2 In order to receive a contract award, a vendor must be registered on eMMA. Registration is free. Go to <https://procurement.maryland.gov>, click on "Register" to begin the process, and then follow the prompts.

### 4.3 Questions

- 4.3.1 All questions, including concerns regarding any applicable MBE or VSBE participation goals, shall be identified in the subject line. The Solicitation Number and Title 21-MX-H01 HVAC Boiler Maintenance Services, and shall be submitted via e-mail to the Procurement Officer at least five (5) days prior to the Bid due date, no later than the date and time specified the Key Information Summary Sheet. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Bid due date.

- 4.3.2 Answers to all questions that are not clearly specific only to the requestor will be distributed via the same mechanism as for IFB amendments, and posted on eMMA.
- 4.3.3 The statements and interpretations contained in responses to any questions, whether responded to verbally or in writing, are not binding on the Department unless it issues an amendment in writing.

#### **4.4 Procurement Method**

A Contract will be awarded in accordance with the Competitive Sealed bidding method under COMAR 21.05.02.

#### **4.5 Bid Due (Closing) Date and Time**

- 4.5.1 Bids shall be submitted in the number and form set forth in **Section 5 Bid Format**, must be received by the Procurement Officer no later than the Bid due date and time indicated on the Key Information Summary Sheet in order to be considered.
- 4.5.2 Requests for extension of this date or time shall not be granted.
- 4.5.3 Bidders submitting Bids should allow sufficient delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, Bids received after the due date and time listed in the Key Information Summary Sheet will not be considered.
- 4.5.4 Bids may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the Key Information Summary Sheet for receipt of Bids.
- 4.5.5 Bids may not be submitted by facsimile. Bids will be opened publicly at the date and time indicated on the Key Information Summary Sheet.
- 4.5.6 Potential Bidders not responding to this solicitation are requested to submit the “No Bid Notice/Vendor Feedback” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

#### **4.6 Multiple or Alternate Bids**

Multiple or alternate Bids will not be accepted.

#### **4.7 BPO as a Contract**

The Blanket Purchase Order (BPO) issued as a result of the Invitation for Bid (IFB) and any subsequent amendments, modifications or options issued relevant to the IFB or BPO, shall comply with all of the terms, conditions and specifications issued with the IFB and are incorporated in and made part of the BPO.

#### **4.8 Receipt, Opening and Recording of Bids**

- 4.8.1.1 Upon receipt, each Bid and any timely modification(s) to a Bid shall be stored in a secure place until the time and date set for bid opening. Before Bid opening, the State may not disclose the identity of any Bidder.
- 4.8.1.2 Bids shall be opened publicly, at the time, date and place designated in the IFB Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors). The name of each Bidder, the Total Bid Price, and such other

information as is deemed appropriate shall be read aloud or otherwise made available and recorded at the time of bid opening.

#### **4.9 Confidentiality of Bids / Public Information Act Notice**

- 4.9.1 The Bidder should give specific attention to the clear identification of those portions of its Bid that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4. This information should be identified by page number and placed in the Transmittal Letter with the Bid.
- 4.9.2 The Bids shall be tabulated or a Bid abstract made. The opened Bids shall be available for public inspection at a reasonable time after Bid opening, but in any case before contract award, except to the extent, the Bidder designates trade secrets or other proprietary data to be confidential as set forth in this solicitation. Material so designated as confidential shall accompany the Bid and shall be readily separable from the Bid in order to facilitate public inspection of the non-confidential portion of the Bid, including the Total Bid Price.
- 4.9.3 For requests for information made under the PIA, the Procurement Officer shall examine the Bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. Nondisclosure is permissible only if approved by the Office of the Attorney General.

#### **4.10 Award Basis**

- 4.10.1 A Contract shall be awarded to the responsible Bidder(s) submitting a responsive Bid with the most favorable bid price or most favorable evaluated bid price (as referenced in COMAR 21.05.02.13) for providing the goods and services as specified in this IFB. Bidders must bid all line items. Partial or incomplete bids will be rejected unless otherwise stated in the solicitation. See IFB Section 6 for Bid evaluation and award information.
- 4.10.2 Award of this contract will not be final and complete until after: (1) the Contractor submits complete and satisfactory documentation required under the Contract and/or documentation required by the Procurement Officer; and (2) the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required.

#### **4.11 Tie Bids**

Tie Bids will be decided pursuant to COMAR 21.05.02.14.

#### **4.12 Duration of Bids**

Bids submitted in response to this IFB are irrevocable for the latest of the following: 120 days following the Bid due date and time or the date any protest concerning this IFB is finally resolved. This period may be extended at the Procurement Officer's request only with the Bidder's written agreement.

#### **4.13 Revisions to the IFB**

- 4.13.1 If the IFB is revised before the due date for Bids, the Department shall post any addenda to the IFB on eMMA and shall endeavor to provide such addenda to all prospective Bidders that were sent this IFB or are otherwise known by the Procurement Officer to have obtained this IFB. It remains the responsibility of all prospective Bidders to check eMMA for any addenda issued prior to the submission of Bids.

- 4.13.2 Bidders shall acknowledge the receipt of all addenda to this IFB issued before the Bid due date.
- 4.13.3 Failure to acknowledge receipt of an addendum does not relieve the Bidder from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Bid to be deemed not responsive.

#### **4.14 Cancellations**

- 4.14.1 The State reserves the right to cancel this IFB, accept or reject all Bids in whole or in part received in response to this IFB and to waive or permit the cure of minor irregularities.
- 4.14.2 In the event a government entity proposes and receives the recommendation for award, the procurement may be cancelled, and the award processed in accordance with COMAR 21.01.03.01.A (4).
- 4.14.3 If the services that are the subject of the IFB are currently being provided under an interagency agreement with, a public institution of higher education and the State determines that the services can be provided more cost effectively by the public institution of higher education, then the IFB may be cancelled in accordance with Md. Code Ann., State Finance and Procurement Art., § 3-207(b) (2).

#### **4.15 Incurred Expenses**

The State will not be responsible for any costs incurred by any Bidder in preparing and submitting a Bid or performing any other activities related to submitting a Bid in response to this solicitation.

#### **4.16 Protest/Disputes**

Any protest or dispute related to this solicitation or the Contract award shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

#### **4.17 Bidder Responsibilities**

- 4.17.1 Bidders must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Bidder shall be responsible for Contract performance including any subcontractor participation.
- 4.17.2 If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) to this IFB (see **Section 4.27** “MBE Participation Goal” and **Section 4.28** “VSBE Goal”).
- 4.17.3 If the Bidder is the subsidiary of another entity, all information submitted by the Bidder, including but not limited to references, financial reports, or experience and documentation (e.g. insurance policies, bonds, and letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Bidder, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Bidder’s Bid shall contain an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.
- 4.17.4 A parental guarantee of the performance of the Bidder under this Section will not automatically result in crediting the Bidder with the experience or qualifications of the parent under any evaluation criteria pertaining to the actual Bidder’s experience and qualifications. Instead, the Bidder’s responsibility will be assessed to the extent to which the State determines that the experience and qualifications of the parent are applicable to and shared with the Bidder, any

stated intent by the parent to be directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

#### **4.18 Acceptance of Terms and Conditions**

By submitting a Bid in response to this IFB, the Bidder, if selected for award, shall be deemed to have accepted the terms and conditions of this IFB and the Contract, attached hereto as Attachment M. Any exceptions to this IFB or the Contract must be raised prior to Bid submission. Changes to the solicitation, including the Bid Form or Contract, made by the Bidder may result in Bid rejection.

#### **4.19 Bid/Proposal Affidavit**

A Bid submitted by the Bidder must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as **Attachment C** of this IFB.

#### **4.20 Contract Affidavit**

All Bidders are advised that if a Contract is awarded as a result of this solicitation, the successful Bidder will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as **Attachment N** of this IFB. This Affidavit must be provided within five (5) Business Days of notification of recommended award. For purposes of completing Section "B" of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside of the State of Maryland is considered a "foreign" business.

#### **4.21 Compliance with Laws/Arrearages**

By submitting a Bid in response to this IFB, the Bidder, if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract.

By submitting a response to this solicitation, each Bidder represents that it is not in arrears in the payment of any obligations due and owing the State, including the payment of taxes and employee benefits, and shall not become so in arrears during the term of the Contract if selected for Contract award.

#### **4.22 Verification of Registration and Tax Payment**

Before a business entity can do business in the State, it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, and 301 West Preston Street, Baltimore, Maryland 21201. For registration information, visit <https://www.egov.maryland.gov/businessexpress>.

It is strongly recommended that any potential Bidder complete registration prior to the Bid due date and time. The Bidder's failure to complete registration with SDAT may disqualify an otherwise successful Bidder from final consideration and recommendation for Contract award.

#### **4.23 False Statements**

Bidders are advised that Md. Code Ann., State Finance and Procurement Article, § 11-205.1 provides as follows:

4.23.1 In connection with a procurement contract a person may not willfully:

- a) Falsify, conceal, or suppress a material fact by any scheme or device.
- b) Make a false or fraudulent statement or representation of a material fact.

- c) Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

4.23.2 A person may not aid or conspire with another person to commit an act under **Section 4.22.1**.

4.23.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five (5) years or both.

#### **4.24 Payments by Electronic Funds Transfer**

By submitting a Bid in response to this solicitation, the Bidder, if selected for award:

4.24.1 Agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$200,000. The successful Bidder shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form.

4.24.2 Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller's website at:  
[http://comptroller.marylandtaxes.com/Vendor\\_Services/Accounting\\_Information/Static\\_Files/GA\\_DX10Form20150615.pdf](http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Static_Files/GA_DX10Form20150615.pdf).

#### **4.25 Prompt Payment Policy**

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor shall comply with the prompt payment requirements outlined in the Contract, Section 31 "Prompt Pay Requirements" (see **Attachment M**). Additional information is available on GOSBA's website at:

<http://www.gomdsmallbiz.maryland.gov/documents/legislation/promptpaymentfaqs.pdf>.

#### **4.26 Electronic Procurements Authorized**

4.26.1 Under COMAR 21.03.05, unless otherwise prohibited by law, the Department of Juvenile Services may conduct procurement transactions by electronic means, including the solicitation, proposing, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.

4.26.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Bidder to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or Contract. In the case of electronic transactions authorized by this IFB, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.

4.26.3 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., IFB § 4.23 describing payments by Electronic Funds Transfer), the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:

- a) The Procurement Officer may conduct the procurement using eMMA, e-mail, or facsimile to issue:
  - 1) The IFB;
  - 2) Any amendments;
  - 3) Pre-Bid conference documents;
  - 4) Questions and responses;
  - 5) Communications regarding the solicitation or Bid to any Bidder or potential Bidder;
  - 6) Notices of award selection or non-selection; and
  - 7) The Procurement Officer's decision on any Bid protest or Contract claim.

The Bidder or potential Bidder may use e-mail to:

- 8) Submit Bids;
- 9) Ask questions regarding the solicitation;
- 10) Reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer and;
- 11) Submit a "No Bid Notice/Vendor Feedback Form" to the IFB.
- 12) File bid protests;
- 13) File Contract claims;

The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in **Section 4.26.3** of this subsection, utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.

4.26.4 The following transactions related to this procurement and any Contract awarded pursuant to it are **not authorized** to be conducted by electronic means:

- A. Any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Bidder be provided in writing or hard copy.

4.26.5 Any e-mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.

## 4.27 MBE Participation Goal

### 4.27. Establishment of Goal and Subgoals

An overall MBE subcontractor participation goal as identified in the Key Information Summary Sheet has been established for this procurement, representing a percentage of the total Contract dollar value, including all renewal option terms, if any, has been established for this procurement.

Notwithstanding any subgoals established for this IFB, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.

By submitting a response to this solicitation, the Bidder acknowledges the overall MBE subcontractor participation goal and subgoals, and commits to achieving the overall goal and subgoals by utilizing certified minority business enterprises, or requests a full or partial waiver of the overall goal and subgoals.

**A Bidder that does not commit to meeting the entire MBE participation goal outlined in this Section 4.27 must submit a request for waiver with its bid submission that is supported by good faith efforts documentation to meet the MBE goal made prior to submission of its Bid as outlined in Attachment D-1B, Waiver Guidance. Failure of a Bidder to properly complete, sign, and submit Attachment D-1A at the time it submits its Bid(s) to the IFB will result in the State's rejection of the Bidder's Bid for the applicable Service Category. This failure is not curable.**

4.27.1 Attachments.

- a) D-1 to D-5 – The following Minority Business Enterprise participation instructions, and forms are provided to assist Bidders:
  1. Attachment D-1A MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (must be submitted with Bid)
  2. Attachment D-1B Waiver Guidance
  3. Attachment D-1C Good Faith Efforts Documentation to Support Waiver Request
  4. Attachment D-2 Outreach Efforts Compliance Statement
  5. Attachment D-3A MBE Subcontractor Project Participation Certification
  6. Attachment D-3B MBE Prime Project Participation Certification
  7. Attachment D-4A Prime Contractor Paid/Unpaid MBE Invoice Report
  8. Attachment D-4B MBE Prime Contractor Report
  9. Attachment D-5 Subcontractor Paid/Unpaid MBE Invoice Report

The Bidder shall include with its Bid a completed MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) whereby:

1. The Bidder acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
2. The Bidder responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Bid submission. The Bidder shall specify the percentage of total contract value associated with each MBE subcontractor identified on the MBE participation schedule, including any work performed by the MBE prime (including a prime participating as a joint venture) to be counted towards meeting the MBE participation goals.

3. The Bidder requesting a waiver should review **Attachment D-1B** (Waiver Guidance) and **D-1C** (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.

**An Bidder must properly complete and submit a separate Attachment D-1A, MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule, for EACH Service Category (I and II) for which it is submitting a Bid. If an Bidder is submitting a Bid for each of Service Categories I and II, the Bidder must submit two separate Attachment D-1As, one for each of the two Service Categories.**

***If the Bidder fails to submit a completed Attachment D-1A with the Bid as required, the Procurement Officer shall determine that the Bid is not responsive.***

- 4.27.2 Bidders are responsible for verifying that each MBE (including any MBE prime and MBE prime participating in a joint venture) selected to meet the goal and any subgoals and subsequently identified in **Attachment D-1A** is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.
- 4.27.3 Within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Bidder must provide the following documentation to the Procurement Officer.
  - a) Outreach Efforts Compliance Statement (**Attachment D-2**);

MBE Subcontractor/Prime Project Participation Certification (**Attachment D-3A/3B**); and

Any other documentation required by the Procurement Officer to ascertain Bidder responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.

Further, if the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or of any applicable subgoal is necessary, the recommended awardee must submit a fully documented waiver request that complies with COMAR 21.11.03.11.

***If the recommended awardee fails to return each completed document within the required time, the Procurement Officer may determine that the recommended awardee is not responsible and, therefore, not eligible for Contract award. If the Contract has already been awarded, the award is voidable.***

- 4.27.4 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://mbe.mdot.maryland.gov/directory/>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**
- 4.27.5 The Bidder that requested a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (**Attachment D-1C**) and all documentation within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.
- 4.27.6 All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (**Attachment D-1A**), completed and submitted by the Bidder in connection with its certified MBE participation commitment shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the

referenced documents will be considered a part of the Bid for order of precedence purposes (see Contract – **Attachment M, Section 2.1**).

- 4.27.7 The Bidder is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions. (See Contract – **Attachment M, Liquidated Damages for MBE, section 39**)
- 4.27.8 As set forth in COMAR 21.11.03.12-1(D), when a certified MBE firm participates on a contract as a prime contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract.

In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule (**Attachment D-1A**) and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the subgoals, the MBE prime must also identify other certified MBE subcontractors [see Section 4B of the MBE Participation Schedule (**Attachment D-1A**)] used to meet those goals. If dually certified, the MBE prime can be designated as only one of the MBE sub goal classifications but can self-perform up to 100% of the stated subgoal.

As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Refer to MBE forms (**Attachment D**) for additional information.

## **4.28 VSBE Goal**

There is no VSBE goal for this solicitation

## **4.29 Living Wage Requirements**

- a) Maryland law requires that contractors meeting certain conditions pay a living wage to covered employees on State service contracts over \$100,000. Maryland Code Ann., State Finance and Procurement Article, § 18-101 et al. The Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation requires that a contractor subject to the Living Wage law submit payroll records for covered employees and a signed statement indicating that it paid a living wage to covered employees; or receive a waiver from Living Wage reporting requirements. See COMAR 21.11.10.05.
- b) If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions. Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor, Licensing and Regulation (DLLR) website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.
- c) Additional information regarding the State's living wage requirement is contained in **Attachment F**. Bidders must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (**Attachment F-1**) with their Bids. If the Bidder fails to complete

and submit the required documentation, the State may determine the Bidder to not be responsible under State law.

- d) Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or a Tier 2 Area of the State. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State.
  - 1) The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. In this circumstance, the Contract will be determined to be a Tier 1 Contract.
  - 2) The Contract will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Bidder must identify in its Bid the location(s) from which services will be provided, including the location(s) from which 50% or more of the Contract services will be provided.
  - 3) If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
  - 4) If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.
  - 5) If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. See COMAR 21.11.10.07.

The Bidder shall identify in the Bid the location from which services will be provided.

**NOTE:** Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change. The Contractor shall be responsible for any wage/rate increase during the term of the Contract and such increase may not be passed on to the State. Conflict of Interest Affidavit and Disclosure

- 4.29.1 The Bidder shall complete and sign the Conflict of Interest Affidavit and Disclosure (**Attachment H**) and submit it with its Bid.
- 4.29.2 By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all Contractor Personnel and subcontractors are also without a conflict of interest as defined in COMAR 21.05.08.08A.
- 4.29.3 Additionally, a Contractor has an ongoing obligation to ensure that all Contractor Personnel are without conflicts of interest prior to providing services under OR individual Task Orders issued under the Contract. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.

- 4.29.4 Participation in Drafting of Specifications: Disqualifying Event: Bidders are advised that Md. Code Ann. State Finance and Procurement Article §13-212.1(a) provides generally that “an individual who assists an executive unit in the drafting of specifications, an invitation for bids, a request for proposals for a procurement. Or the selection or award made in response to an invitation for bids or a request for proposals, or a person that employs the individual, may not: (1) submit a bid or proposal for that procurement; or (2) assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement.” Any Bidder submitting a Bid in violation of this provision shall be classified as “not responsible.”

### **4.30 Non-Disclosure Agreement**

#### **4.30.1 Non-Disclosure Agreement (Contractor)**

All Bidders are advised that this solicitation and any Contract(s) are subject to the terms of the Non-Disclosure Agreement (NDA) contained in this solicitation as **Attachment I**. This Agreement must be provided within five (5) Business Days of notification of recommended award; however, to expedite processing, it is suggested that this document be completed and submitted with the Bid.

### **4.31 HIPAA - Business Associate Agreement**

This solicitation does not require a HIPAA Business Associate Agreement.

### **4.32 Nonvisual Access**

This solicitation does not contain Information Technology (IT) provisions requiring Nonvisual Access.

### **4.33 Location of the Performance of Services Disclosure**

This solicitation does not require a Location of the Performance of Services Disclosure.

### **4.34 Department of Human Services (DHS) Hiring Agreement**

Hiring Agreement is not a requirement for this solicitation

### **4.35 Small Business Reserve (SBR) Procurement**

- 4.35.1 This is a Small Business Reserve Procurement for which award will be limited to certified small business vendors. Only businesses that meet the statutory requirements set forth in State Finance and Procurement Article, §§14-501—14-505, Annotated Code of Maryland, and that are certified by GOSBA Small Business Reserve Program are eligible for award of a contract.
- 4.35.2 For the purposes of a Small Business Reserve Procurement, a small business is a for-profit business, other than a broker, that meets the following criteria:
- a) It is independently owned and operated;
  - b) It is not a subsidiary of another business;
  - c) It is not dominant in its field of operation; and
    - 1) With respect to employees, in its most recently completed three (3) fiscal years:
      - a) Its wholesale operations did not employ more than 50 persons;
      - b) Its retail operations did not employ more than 25 persons;
      - c) Its manufacturing operations did not employ more than 100 persons;

- d) Its service operations did not employ more than 100 persons;
  - e) Its construction operations did not employ more than 50 persons; and
  - f) The architectural and engineering services of the business did not employ more than 100 persons; and
- 2) With respect to gross sales, in its most recently completed three (3) fiscal years:
- a) The gross sales of its wholesale operations did not exceed an average of \$4,000,000;
  - b) The gross sales of its retail operations did not exceed an average of \$3,000,000;
  - c) The gross sales of its manufacturing operations did not exceed an average of \$2,000,000;
  - d) The gross sales of its service operations did not exceed an average of \$10,000,000;
  - e) The gross sales of its construction operations did not exceed an average of \$7,000,000; and
  - f) The gross sales of its architectural and engineering operations did not exceed an average of \$4,500,000.
- d) Note: If a business has not existed for three (3) years, the employment and gross sales average or averages shall be the average for each year or part of a year during which the business has been in existence.

Further information on the certification process is available at eMaryland Marketplace Advantage.

#### **4.35.3 Small Business Reserve (SBR)**

This procurement has been designated as a Small Business Reserve in accordance with Title 14, Subtitle 2, of the State Finance and Procurement Article of the Maryland Annotated Code. The percentages for this procurement are as follows:

State-certified small business (not a veteran-owned or disabled veteran-owned Small business) - 5%

State-certified, veteran-owned small business - 7%

State-certified, disabled veteran-owned small business - 8%

To be eligible your company must have a current small business certification from the Maryland Department of General Services. The small business size standards in Maryland are different from the Federal standards, so you cannot substitute an SBA 8(a) certification or VetBiz verification for State small business certification.

If your small business is eligible but not certified by the State, apply for certification on the Department of General Services website at [www.dgs.maryland.gov/SmallBusiness/](http://www.dgs.maryland.gov/SmallBusiness/) and obtain a small business certification number.

The bidder must provide the following to the procurement officer to prove eligibility for the Percentage Price.

- A. A certified small business that is not veteran-owned or disabled-veteran- owned must provide the DGS small business certification number.
- B. A veteran-owned certified small business must provide the DGS small business certification number AND a copy of the business owner is DD Form 214 attesting to a discharge or release under conditions other than dishonorable.
- C. A service-disabled veteran-owned small business that is currently verified and registered on www.VetBiz.gov must provide the DGS small business certification number AND a copy of the letter from the U.S. Department of Veterans Affairs Verification Program showing your verification is current
- D. A service-disabled veteran-owned small business that is NOT currently verified and registered on www.VetBiz.gov must provide the DGS small business certification number AND a copy of your DD Form 214 showing discharge or release under conditions other than dishonorable AND a copy of your Adjudication Letter from the U.S. Veterans Administration.

State Law requires that the veteran business owner be residing in Maryland. There is no Maryland residency requirement for owners of small businesses participating in the Preference as a small business without the veteran-owned or service-disabled veteran- owned designation.

The bidder will be required to complete a Small Business Reserve Contract Affidavit. A copy of this Affidavit is included. This Affidavit must be provided with the bid.

- 4.35.4 **Ineligible Bids.** Under a small business reserve procurement, a business that is not a certified small business is ineligible for award of a contract.
- 4.35.5 Before awarding a contract under a procurement designated as a small business reserve procurement, the Procurement Officer shall verify that the apparent awardee is certified by the Governor's Office of Small, Minority & Women Business Affairs as a small business. A procurement contract award under a small business reserve may not be made to a business that has not been SBR certified.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## 5 Bid Format

### 5.1 One Part Submission

Each Bidder shall submit its Bid with all Required Bid Submissions (see IFB Section 5.4) in a single sealed package.

Electronic means include submission online at <https://emma.maryland.gov/page.aspx/en/usr/login>

### 5.2 Labeling

Each Bidder is required to label the sealed Bid with the IFB title and number, name and address of the Bidder, and closing date and time for receipt of the Bids.

### 5.3 Bid Price Form

The Bid shall contain all price information in the format specified on the Bid Form. The Bidder shall complete the Bid Form only as provided in the Bid Pricing Instructions and the Bid Form. Do not amend, alter, or leave blank any items on the Bid Form or include additional clarifying or contingent language on or attached to the Bid Form. Failure to adhere to any of these instructions may result in the Bid being determined to be non-responsive and rejected by the Department.

### 5.4 Required Bid Submission

A Bidder shall include the following with its Bid:

- 5.4.1 **Bidder Information Sheet** (see **Appendix 2**)
- 5.4.2 **Company Profile** (see **Appendix 3**)
- 5.4.3 **Acknowledgement** of all addenda to this IFB.
- 5.4.4 **Minimum Qualifications Documentation.** The Bidder shall submit any Minimum Qualifications documentation that may be required, as set forth in **IFB Section 1**. If references are required in **IFB Section 1**, those references shall be submitted in this section and shall contain the information described in both **Section 1**.
- 5.4.5 **Completed Required Attachments.**
  - 1) Completed Bid Form (**Attachment B**).
  - 2) Completed Bid Affidavit (**Attachment C**).
  - 3) Completed Maryland Living Wage Requirements Affidavit of Agreement (**Attachment F-1**).
- 5.4.6 **Additional Documentation \*If Required.** \*See appropriate IFB section to determine whether the document is required for this procurement.
  - 1) A Signed Statement from the Bidder's Parent Organization Guaranteeing Performance of the Bidder. \*see **IFB section 4.16**
  - 2) Completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) \*see **IFB section 4.26**
  - 3) Completed Federal Funds Attachment (**Attachment G**) \*see **IFB section 4.29**
  - 4) Completed Conflict of Interest Affidavit and Disclosure (**Attachment H**) \*see **IFB section 4.30**
  - 5) Completed Mercury Affidavit (**Attachment K**) \*see **IFB section 4.34**

- 6) Completed Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Prime/Subcontractor Participation Schedule (**Attachment E-1**) \*see IFB section 4.27
- 7) Completed Location of the Performance of Services Disclosure (**Attachment L**) \*see IFB section 4.35.
- 8) Water System Operator Certification.

5.4.7 **References.** At least three (3) references are requested from customers who are capable of documenting the Bidder's ability to provide the goods and services specified in this IFB. References used to meet any Minimum Qualifications (see IFB **Section 1**) may be used to meet this request. Each reference shall be from a client for whom the Bidder has provided goods and services within the past five (5) years and shall include the following information:

- 1) Name of client organization;
- 2) Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
- 3) Value, type, duration, and description of goods and services provided.

The Department reserves the right to request additional references or utilize references not provided by the Bidder. Points of contact must be accessible and knowledgeable regarding Bidder performance.

5.4.8 **List of Current or Prior State Contracts.** Provide a list of all contracts with any entity of the State of Maryland for which the Bidder is currently performing goods and services or for which services have been completed within the last five (5) years. For each identified contract, the Bidder is to provide:

- 1) The State contracting entity;
- 2) A brief description of the goods and services provided;
- 3) The dollar value of the contract;
- 4) The term of the contract;
- 5) The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- 6) Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the Bidder's level of performance on State contracts will be used by the Procurement Officer to determine the responsibility of the Bidder and considered as part of the experience and past performance evaluation criteria of the IFB.

5.4.9 **Financial Capability.** The Bidder must include in its Bid a commonly accepted method to prove its fiscal integrity. If available, the Bidder shall include Financial Statements, preferably a Profit and Loss (P&L) statement and a Balance Sheet, for the last two (2) years (independently audited preferred).

In addition, the Bidder may supplement its response to this Section by including one or more of the following with its response:

- 1) Dun & Bradstreet Rating;
- 2) Standard and Poor's Rating;

- 3) Lines of credit;
  - 4) Evidence of a successful financial track record; and
  - 5) Evidence of adequate working capital.
- 5.4.10 **Certificate of Insurance.** The Bidder shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Bid submission date. The current insurance types and limits do not have to be the same as described in **Section 3.6**. See **Section 3.6** for the required insurance certificate submission for the apparent awardee.
- 5.4.11 **Subcontractors.** The Bidder shall provide a complete list of all subcontractors that will work on the Contract if the Bidder receives an award, including those utilized in meeting the MBE and VSBE subcontracting goal(s), if applicable. This list shall include a full description of the duties each subcontractor will perform and why/how, each subcontractor was deemed the most qualified for this project. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate attachment(s) of this IFB.
- 5.4.12 **Legal Action Summary.** This summary shall include:
- 1) A statement as to whether there are any outstanding legal actions or potential claims against the Bidder and a brief description of any action;
  - 2) A brief description of any settled or closed legal actions or claims against the Bidder over the past five (5) years;
  - 3) A description of any judgments against the Bidder within the past five (5) years, including the court, case name, complaint number, and a brief description of the final ruling or determination; and
  - 4) In instances where litigation is ongoing and the Bidder has been directed not to disclose information by the court, provide the name of the judge and location of the court.

## 5.5 Delivery

- 5.5.1 Bids shall only be accepted by e-mail or via the State's internet based electronic procurement system, eMMA. Bidders may not mail or hand-deliver Bids.
- 5.5.2 Bidders shall provide their Bids in one envelope through eMMA following the [Quick Reference Guides](#) (QRG) labelled "**4 - eMMA QRG Responding to Solicitations (IFB)**" for single envelope submissions.

## 5.6 Documents Required upon Notice of Recommendation for Contract Award

Upon receipt of a notification of recommendation for contract award, the following documents shall be completed and submitted by the recommended awardee within five (5) business days, unless noted otherwise. Submit three (3) copies of each of the following documents:

- A. Signed contract (Attachment M),
- B. Completed Contract Affidavit (Attachment N),
- C. Completed MBE Attachments D-2 and D-3A and B, within ten (10) Business days, if applicable; see IFB Section 4.26,

- D. MBE waiver justification within ten (10) Business days (see MBE Waiver Guidance and forms in Attachments D-1B and D-1C), if a waiver has been requested (if applicable; see IFB Section 4.26),
- E. Completed VSBE Attachment E-2, if applicable see IFB Section 4.27,
- F. Signed Non-Disclosure Agreement (Attachment I), if applicable; see IFB Section 4.31,
- G. Signed HIPAA Business Associate Agreement (Attachment J), if applicable; see IFB Section 4.32,
- H. Completed DHR Hiring Agreement, Attachment O, if applicable see IFB Section 4.36, and
- I. Copy of a current certificate of insurance with the prescribed limits set forth in IFB Section 3.1 “Insurance Requirements,” listing the State as an Additional Insured, if applicable; see IFB Section 3.1.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## 6 Bid Evaluation and Award

### 6.1 Bid Evaluation Criteria

The Bids will be evaluated based on the Total Bid Price, as per COMAR 21.02.13. All responsible Bidders will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Bid Price as submitted on the **Attachment B** - Bid Form.

### 6.2 Reciprocal Preference

- 6.2.1 Although Maryland law does not authorize procuring agencies to favor resident Bidders in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. COMAR 21.05.01.04 permits procuring agencies to apply a reciprocal preference under the following conditions:
- a) The Maryland resident business is a responsible Bidder;
  - b) The lowest responsive Bid is from a responsible Bidder whose principal office, or principal base of operations is in another state;
  - c) The other state gives a preference to its resident businesses through law, policy, or practice; and
  - d) The preference does not conflict with a federal law or grant affecting the procurement Contract.
- 6.2.2 The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

### 6.3 Award Determination

Award will be made to the responsible Bidder who submits to the State the responsive Bid that has the lowest Total Bid Price.

The State reserves the right to make the award by item, or groups of items, or Total Bid Price if it is in the best interest of the State to do so unless the Bidder specifies in its bid that a partial or progressive award is not acceptable.

### 6.4 Documents Required upon Notice of Recommendation for Contract Award

Upon receipt of a Notification of Recommendation for Contract award, the apparent awardee shall complete and furnish the documents and attestations as directed in Table 1 of **Section 7 – IFB Attachments and Appendices**.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## 7 IFB ATTACHMENTS AND APPENDICES

### Instructions Page

A Bid submitted by the Bidder must be accompanied by the completed forms and/or affidavits identified as “with Bid” in the “When to Submit” column in Table 1 below. All forms and affidavits applicable to this IFB, including any applicable instructions and/or terms, are identified in the “Applies” and “Label” columns in Table 1.

For documents required as part of the Bid:

4. For e-mail submissions, submit one (1) copy of each with signatures.

All Bidders are advised that if a Contract is awarded as a result of this solicitation, the successful Bidder will be required to complete certain forms and affidavits after notification of recommended award. The list of forms and affidavits that must be provided is described in Table 1 below in the “When to Submit” column.

For documents required after award, submit three (3) copies of each document within the appropriate number of days after notification of recommended award, as listed in Table 1 below in the “When to Submit” column.

**Table 1: IFB ATTACHMENTS AND APPENDICES**

Applies?	When to Submit	Label	Attachment Name
Y	Before Bid	A	Pre-Bid Conference Response Form
Y	With Bid	B	Bid Instructions and Form
Y	With Bid	C	Bid/Proposal Affidavit (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf</a> )
Y	With Bid	D	MBE Forms D-1A (see link at <a href="https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf">https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf</a> ) <b>IMPORTANT:</b> If this IFB contains different Functional Areas or Service Categories. A separate Attachment D-1A is to be submitted for each Functional Area or Service Category where there is a MBE goal.
Y	10 Business Days after recommended award	D	MBE Forms D-1B, D-1C, D-2, D-3A, D-3B (see link at <a href="https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf">https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf</a> ) <b>Important:</b> Attachment D-1C, if a waiver has been requested, is also required within 10 days of recommended award.

Applies?	When to Submit	Label	Attachment Name
Y	As directed in forms	D	MBE Forms D-4A, D-4B, D-5 (see link at <a href="https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf">https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf</a> )
N	With Bid	E	Veteran-Owned Small Business Enterprise (VSBE) Form E-1A
N	5 Business Days after recommended award	E	VSBE Forms E-1B, E-2, E-3
Y	With Bid	F	Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf</a> )
N	With Bid	G	Federal Funds Attachments
Y	With Bid	H	Conflict of Interest Affidavit and Disclosure (see link at <a href="https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf">https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf</a> )
Y	5 Business Days after recommended award – However, suggested with Bid	I	Non-Disclosure Agreement (Contractor) (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf</a> )
N	With Bid	K	Mercury Affidavit
N	With Bid	L	Location of the Performance of Services Disclosure
Y	5 Business Days after recommended award	M	Sample Contract (included in this IFB)
Y	5 Business Days after recommended award	N	Contract Affidavit (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf</a> )
N	5 Business Days after recommended award	O	DHS Hiring Agreement
Applies?	When to Submit	Label	Attachment Name
Y	n/a	1	Abbreviations and Definitions (included in this IFB)

Applies?	When to Submit	Label	Attachment Name
Y	With Bid	2	Bidder Information Sheet (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OffendorInformationSheet.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OffendorInformationSheet.pdf</a> )
N	Before Bid, as directed in the IFB.	3	Non-Disclosure Agreement (Bidder)
Y	With Bid	3	Company Profile
Y	n/a	4	Quarterly Vendor Performance Report
Y	With Bid	5	Small Business Contract Affidavit
	n/a	6	Equipment List
<b>Additional Submissions</b>			
Applies?	When to Submit	Label	Document Name
Y	5 Business Days after recommended award		Evidence of meeting insurance requirements (see <b>Section 3.6</b> ); 1 copy
Y	10 Business Days after recommended award		PEP; 1 copy
		--	

**Attachment A. Site Visit Response Form**

**Solicitation Number 21-MX-H01**

HVAC, Boiler Maintenance and Water Treatment Services

A Site Visit will be held on Wednesday August 25, 2021 @ 9:00 am; at Charles Hickey School  
9702 Harford Road Building #8 Baltimore MD. 21234.

Please return this form by site visit date (August 25, 2021) advising whether or not your firm  
plans to attend. The completed form should be returned via e-mail to the Procurement Officer at  
the contact information below:

Michelle Thomas  
Department of Juvenile Services  
E-mail: Michelle.thomas2@maryland.gov

Please indicate:

\_\_\_\_\_ Yes, the following representatives will be in attendance.  
Attendees (Check the IFB for limits to the number of attendees allowed):  
1.  
2.  
3.  
\_\_\_\_\_ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see IFB § 4.1“Pre-Bid  
conference”):

Bidder: \_\_\_\_\_  
*Bidder Name (please print or type)*

By: \_\_\_\_\_  
*Signature/Seal*

Printed Name: \_\_\_\_\_  
*Printed Name*

Title: \_\_\_\_\_  
*Title*

Date: \_\_\_\_\_  
*Date*

**Attachment B. Bid Instructions & Instructions & Form**

See separate Excel Bid Form labeled: 21-MX-H01 Bid Instructions and Form.xls.

**Attachment C. Bid/Proposal Affidavit**

See link at [http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid\\_Proposal-Affidavit.pdf](http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf).

**Attachment D. Minority Business Enterprise (MBE) Forms**

See link at <https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf>.

This solicitation includes a Minority Business Enterprise (MBE) participation goal of 2% percent and all of the following subgoals:

- N/A percent for African American-owned MBE firms;
- N/A percent for Hispanic American-owned MBE firms;
- N/A percent for Asian American-owned MBE firms;
- N/A percent for Women-owned MBE firms.

**Attachment E. Veteran-Owned Small Business Enterprise (VSBE) Forms**

This solicitation does not include a Veteran-Owned Small Business Enterprise goal.

**ATTACHMENT F. – LIVING WAGE REQUIREMENTS FOR SERVICE  
CONTRACTS**

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf> to complete the Affidavit.

- A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
  - (1) A Contractor who:
    - (a) Has a State contract for services valued at less than \$100,000, or
    - (b) Employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
  - (2) A subcontractor who:
    - (a) Performs work on a State contract for services valued at less than \$100,000,
    - (b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
    - (c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B (3) or C below.
  - (3) Service contracts for the following:
    - (a) Services with a Public Service Company;
    - (b) Services with a nonprofit organization;
    - (c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
    - (d) Services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of Md. Code Ann., State Finance and Procurement Article, Title 18.
- E. Each Contractor/subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.

- F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.
- H. A Contractor/subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.
- I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, if the Commissioner determines that the Contractor/subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml> and clicking on Living Wage for State Service Contracts.

## **Attachment G. Federal Funds Attachments**

This solicitation does not include a Federal Funds Attachment.

## Attachment H. Conflict of Interest Affidavit and Disclosure

See link at <https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf>.

**Attachment I. Non-Disclosure Agreement (Contractor)**

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf>.

**Attachment J. HIPAA Business Associate Agreement**

This solicitation does not require a HIPAA Business Associate Agreement.

<b>Attachment K.      Mercury Affidavit</b>
---

This solicitation does not include the procurement of products known to likely include mercury as a component.

**Attachment L. - Location of the Performance of Services Disclosure**

This solicitation does not require a Location of the Performance of Services Disclosure.

## Attachment M. Contract

THE DEPARTEMENT OF JUVENILE SERVICES (DJS)  
HVAC, Boiler Maintenance and Water Treatment Services  
21-MX-H01

THIS CONTRACT (the “Contract”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ (the “Contractor”) and the STATE OF MARYLAND, acting through the Maryland Department of Juvenile Services (“Department” or “DJS”).

In consideration of the promises and the covenants herein contained the adequacy and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

### 1. Definitions

In this Contract, the following words have the meanings indicated:

- 1.1 “Bid” means the Contractor’s Bid dated \_\_\_\_\_ (Bid date).
- 1.2 “COMAR” means Code of Maryland Regulations.
- 1.3 “Contractor” means the entity first named above whose principal business address is (Contractor’s primary address) and whose principal office in Maryland is (Contractor’s local address), whose Federal Employer Identification Number or Social Security Number is (Contractor’s FEIN), and whose eMaryland Marketplace Advantage vendor ID number is (eMMA Number).
- 1.4 “IFB” means the Invitation for Bids for HVAC, Boiler Maintenance and Water Treatment Services, Solicitation #21-MX-H01, and any amendments, addenda, and attachments thereto issued in writing by the State.
- 1.5 Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.6 “State” means the State of Maryland.
- 1.7 “Veteran-owned Small Business Enterprise” (VSBE) means a business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
- 1.8 Capitalized terms not defined herein shall be ascribed the meaning given to them in the IFB.

### 2. Scope of Contract

- 2.1 The Contractor shall perform in accordance with this Contract and Exhibits A-C, which are listed below and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The IFB

Exhibit B – The Contract Affidavit, executed by the Contractor and dated (date of Attachment C)

Exhibit C – The Bid

- 2.2 The Procurement Officer may, at any time, by written order, make unilateral changes in the work within the general scope of the Contract. No other order, statement, or conduct of the Procurement

Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

- 2.3 Without limiting the rights of the Procurement Officer under Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

### **3. Period of Performance**

- 3.1 The term of this Contract begins on the date the Contract is signed by the Department following any required prior approvals, including approval by the Board of Public Works, if such approval is required (the "Effective Date") and shall continue until \_\_\_\_\_ ("Initial Term").
- 3.2 In its sole discretion, the Department shall have the unilateral right to extend the Contract for (3) three the prices established in the Contract.
- 3.3. The Contractor's performance under the Contract shall commence as of the date provided in a written NTP.
- 3.4 The Contractor's obligation to pay invoices to subcontractors providing products/services in connection with this Contract, as well as the audit; confidentiality; document retention; patents, copyrights & intellectual property; warranty; indemnification obligations; and limitations of liability under this Contract; and any other obligations specifically identified, shall survive expiration or termination of the Contract.

### **4. Consideration and Payment**

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Bid. Unless properly modified (see above Section 2), payment to the Contractor pursuant to this Contract, including the Initial Term and any Renewal Term, shall not exceed the Contracted amount.

Contractor shall notify the Contract Monitor, in writing, at least sixty (60) days before payments reach the NTE Amount. After notification by the Contractor, if the State fails to increase the Contract amount, the Contractor shall have no obligation to perform under this Contract after payments reach the stated amount; provided, however, that, prior to the stated amount being reached, the Contractor shall: (a) promptly consult and work in good faith with the Department of Juvenile Services to establish a plan of action to assure that every reasonable effort is undertaken by the Contractor to complete State-defined critical work in progress prior to the date the NTE Amount will be reached; and (b) when applicable secure databases, systems, platforms, and applications on which the Contractor is working in an industry standard manner so as to prevent damage or vulnerabilities to any of the same due to the existence of any such unfinished work.

- 4.2 Unless a payment is unauthorized, deferred, delayed, or set-off under COMAR 21.02.07, payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the Department's receipt of a proper invoice from the Contractor as required by IFB section 3.3.

The Contractor may be eligible to receive late payment interest at the rate of 9% per annum if:

- (1) The Contractor submits an invoice for the late payment interest within thirty days after the date of the State's payment of the amount on which the interest accrued; and
- (2) A contract claim has not been filed under State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland.

The State is not liable for interest:

- (1) Accruing more than one year after the 31st day after the agency receives the proper invoice; or
- (2) On any amount representing unpaid interest. Charges for late payment of invoices are authorized only as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable.

Final payment under this Contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.

Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

- 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.
- 4.4 Payment of an invoice by the Department is not evidence that services were rendered as required under this Contract.

## **5. Rights to Records**

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a Deliverable under this Contract (as defined in **Section 7.2**), and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a Deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this

Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.

- 5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
- 5.5 Upon termination or expiration of the Contract, the Contractor, at its own expense, shall deliver any equipment, software or other property provided by the State to the place designated by the Procurement Officer.

## **6. Exclusive Use**

- 6.1 The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.
- 6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department of Juvenile Services or developed by Contractor relating to the Contract, except as provided for in **Section 8. Confidential or Proprietary Information and Documentation**.

## **7. Patents, Copyrights, and Intellectual Property**

- 7.1. All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such rights immediately prior to the Effective Date (“Pre-Existing Intellectual Property”). If any design, device, material, process, or other item provided by Contractor is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items pursuant to its rights granted under the Contract.
- 7.2 Except for (1) information created or otherwise owned by the Department or licensed by the Department from third parties, including all information provided by the Department to Contractor; (2) materials created by Contractor or its subcontractor(s) specifically for the State under the Contract (“Deliverables”), except for any Contractor Pre-Existing Intellectual Property included therein; and (3) the license rights granted to the State, all right, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and the Department will have no rights to the same except as expressly granted in this Contract. Any SaaS Software developed by Contractor during the performance of the Contract will belong solely and exclusively to Contractor and its licensors. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the State a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the State a license to use such Contractor Pre-Existing Intellectual Property in connection with its permitted use of such

- Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment therefor by the State in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the State a royalty-free, non-exclusive, limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.
- 7.3. Subject to the terms of **Section 10**, Contractor shall defend, indemnify and hold harmless the State and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any third party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.
- 7.4. Without limiting Contractor's obligations under Section 5.3, if an infringement claim occurs or if the State or the Contractor believes such a claim is likely to occur, the Contractor, (after consultation with the State and at no cost to the State), (a) shall procure for the State the right to continue using the allegedly infringing component or service in accordance with its rights under this Contract; or (b) replace or modify the allegedly infringing component or service so that it becomes non-infringing and remains compliant with all applicable specifications.
- 7.5. Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State as well as all required State approvals.
- 7.6. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any open source license.
- 7.7. The Contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Deliverables delivered under this Contract.
- 7.8. The Contractor shall not affix (or permit any third party to affix), without the Department's consent, any restrictive markings upon any Deliverables that are owned by the State, and if such markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

## **8. Confidential or Proprietary Information and Documentation**

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems or cloud infrastructure, if applicable) shall be held in confidence by the other party. Each party shall, however, be permitted to disclose, as provided by and consistent with applicable law, relevant confidential information to its officers, agents, and Contractor Personnel to the extent that such disclosure is necessary for the performance of their duties under this Contract. Each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor provided that each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor of the obligations hereunder, and bound by, confidentiality at least as restrictive as those of set forth in this Contract.
- 8.2 The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already rightfully in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

#### **9. Loss of Data**

- 9.1 In the event of loss of any State data or records where such loss is due to the act or omission of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for restoring or recreating, as applicable, such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that the Contractor backs all data up and recoverable. At no time shall any Contractor actions (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in databases, systems, platforms, and applications with which the Contractor is working hereunder.
- 9.2 In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data as directed in **IFB Section 3.7**.
- 9.3 Protection of data and personal privacy (as further described and defined in IFB Section 3.8) shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of State information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity and availability of State information and comply with the conditions identified in **IFB Section 3.7**.

#### **10. Indemnification and Notification of Legal Requests**

- 10.1. At its sole cost and expense, Contractor shall (i) indemnify and hold the State, its employees and agents harmless from and against any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to attorneys' fees and costs), whether or not involving a third party claim, which arise out of or relate to the Contractor's, or any of its subcontractors', performance of this Contract and (ii) cooperate, assist, and consult with the State in the defense or investigation of any such claim, demand, action or suit. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.
- 10.2. The State has no obligation: (i) to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations or

performance under this Contract, or (ii) to pay any judgment or settlement of any such suit, claim or action. Notwithstanding the foregoing, the Contractor shall promptly notify the Procurement Officer of any such claims, demands, actions, or suits.

- 10.3. Notification of Legal Requests. In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting State Pre-Existing Intellectual Property, of other information considered to be the property of the State, including but not limited to State data stored with or otherwise accessible by the Contractor, the Contractor shall not respond to such subpoena, process or other legal request without first notifying the State, unless prohibited by law from providing such notice. The Contractor shall promptly notify the State of such receipt providing the State with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process or discovery request. .

#### **11. Non-Hiring of Employees**

No official or employee of the State, as defined under Md. Code Ann., General Provisions Article, § 5-101, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

#### **12. Disputes**

This Contract shall be subject to the provisions of Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim with the Procurement Officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

#### **13. Maryland Law Prevails**

- 13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or any purchase order, task order, or Notice to proceed issued thereunder, or any software or any software license acquired hereunder.
- 13.3 Any and all references to the Maryland Code, annotated and contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

#### **14. Nondiscrimination in Employment**

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to

include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

**15. Contingent Fee Prohibition**

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor to solicit or secure the Contract, and that the Contractor has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Contract.

**16. Non-Availability of Funding**

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

**17. Termination for Default**

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

**18. Termination for Convenience**

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A (2).

**19. Delays and Extensions of Time**

- 19.1 The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.
- 19.2 Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

## **20. Suspension of Work**

The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period as the Procurement Officer may determine to be appropriate for the convenience of the State.

## **21. Pre-Existing Regulations**

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

## **22. Financial Disclosure**

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$200,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$200,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

## **23. Political Contribution Disclosure**

The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website:  
[http://www.elections.state.md.us/campaign\\_finance/index.html](http://www.elections.state.md.us/campaign_finance/index.html).

## **24. Retention of Records**

The Contractor and subcontractors shall retain and maintain all records and documents in any way relating to this Contract for (i) three (3) years after final payment by the State hereunder, or (ii) any applicable federal or State retention requirements (such as HIPAA) or condition of award, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, as designated by the Procurement Officer, at all reasonable times. The Contractor shall provide copies of all documents requested by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. All records related in any way to the Contract are to be retained for the entire time provided under this section.

## **25. Right to Audit**

- 25.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel, including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the services performed pursuant to the Contract.
- 25.2 Upon three (3) Business Days' notice, the State shall be provided reasonable access to Contractor's records to perform any such audits. The Department Of Juvenile Services may conduct these audits with any or all of its own internal resources or by securing, the services of a third party accounting or audit firm, solely at the Department of Juvenile Services 'selection. The Department of Juvenile Service may copy any record related to the services performed pursuant to the Contract. The Contractor agrees to fully cooperate and assist in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance.
- 25.3 The right to audit shall include any of the Contractor's subcontractors including but not limited to any lower tier subcontractor(s). The Contractor shall ensure the Department of Juvenile Services has the right to audit such subcontractor(s).

## **26. Compliance with Laws**

The Contractor hereby represents and warrants that:

- a. It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- b. It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the Term;
- c. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- d. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

## **27. Cost and Price Certification**

- 27.1 The Contractor, by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of the date of its Bid.

- 27.2 The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information, which, as of the date of its Bid, was inaccurate, incomplete, or not current.

**28. Subcontracting; Assignment**

The Contractor may not subcontract any of its obligations under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, each at the State's sole and absolute discretion; provided, however, that a Contractor may assign monies receivable under a contract after written notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

**29. Limitations of Liability**

- 29.1 Contractor shall be liable for any loss or damage to the State occasioned by the acts or omissions of Contractor, its subcontractors, agents or employees as follows:
- (a) For infringement of patents, trademarks, trade secrets and copyrights as provided in **Section 7 "Patents, Copyrights, Intellectual Property"** of this Contract;
  - (b) Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
  - (c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor's liability shall not exceed two (2) times the total value of the Contract or \$1,000,000, whichever is greater. Section 6 ("Indemnification") of this The above limitation of liability is per incident.
- (c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor's liability shall be unlimited.
- 29.2 Contractor's indemnification obligations for Third party claims arising under Section 6 ("Indemnification") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's indemnification liability for third party claims arising under Section 6 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 6.
- 29.3. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all subcontractors are agents of Contractor and Contractor is responsible for performance of the services and compliance with the relevant obligations hereunder by its subcontractors.

**30. Commercial Nondiscrimination**

- 30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate based on race, color, religion, ancestry, national origin, sex, age,

marital status, sexual orientation, sexual identity, genetic information or an individual's refusal. To submit to a genetic test or make available the results of a genetic test or on the basis of disability, or otherwise unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, if this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

- 30.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.
- 30.4 The Contractor shall include the language from 30.1, or similar clause approved in writing by the Department, in all subcontracts.

### **31. Prompt Pay Requirements**

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:
- (a) Not process further payments to the Contractor until payment to the subcontractor is verified;
  - (b) Suspend all or some of the Contract work without affecting the completion date(s) for the Contract work;
  - (c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due to the Contractor;
  - (d) Place a payment for an undisputed amount in an interest-bearing escrow account; or
  - (e) Take other or further actions as appropriate to resolve the withheld payment.
- 31.2 An "undisputed amount" means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such "undisputed amounts" include, without limitation: (a) retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

- 31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department concerning a withheld payment between the Contractor and a subcontractor under this **section 31**, may not:
- (a) Affect the rights of the contracting parties under any other provision of law;
  - (b) Be used as evidence on the merits of a dispute between the Department and the Contractor in any other proceeding; or
  - (c) Result in liability against or prejudice the rights of the Department of Juvenile Services.
- 31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the MBE program.
- 31.5 To ensure compliance with certified MBE subcontract participation goals, the Department of Juvenile Services may, consistent with COMAR 21.11.03.13, take the following measures:
- (a) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule. This verification may include, as appropriate:
    - i. Inspecting any relevant records of the Contractor;
    - ii. Inspecting the jobsite; and
    - iii. Interviewing subcontractors and workers.Verification shall include a review of:
    - i. The Contractor's monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and
    - ii. The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.
  - (b) If the Department determines that the Contractor is not in compliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
  - (c) If the Department determines that the Contractor is in material noncompliance with MBE Contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:
    - i. Terminate the Contract;
    - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
    - iii. Initiate any other specific remedy identified by the Contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.
  - (d) Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

**32. Living Wage**

If a Contractor subject to the Living Wage law fails to submit all records required under COMAR 21.11.10.05 to the Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation, the Department of Juvenile Services may withhold payment of any invoice or retainage. The Department may require certification from the Commissioner on a quarterly basis that such records were properly submitted.

**33. Use of Estimated Quantities**

Unless specifically indicated otherwise in the State's solicitation or other controlling documents related to the Scope of Work, any sample amounts provided are estimates only and the Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

**34. Risk of Loss; Transfer of Title**

Risk of loss for conforming supplies, equipment, materials and Deliverables furnished to the State hereunder shall remain with the Contractor until such supplies, equipment, materials and Deliverables are received and accepted by the State, following which, title shall pass to the State.

**35. Effect of Contractor Bankruptcy**

All rights and licenses granted by the Contractor under this Contract are and shall be deemed to be rights and licenses to "intellectual property," and the subject matter of this Contract, including services, is and shall be deemed to be "embodiments of intellectual property" for purposes of and as such terms are used and interpreted under § 365(n) of the United States Bankruptcy Code ("Code") (11 U.S.C. § 365(n) (2010)). The State has the right to exercise all rights and elections under the Code and all other applicable bankruptcy, insolvency and similar laws with respect to this Contract (including all executory statement of works). Without limiting the generality of the foregoing, if the Contractor or its estate becomes subject to any bankruptcy or similar proceeding: (a) subject to the State's rights of election, all rights and licenses granted to the State under this Contract shall continue subject to the respective terms and conditions of this Contract; and (b) the State shall be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property, and the same, if not already in the State's possession, shall be promptly delivered to the State, unless the Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

**36. Miscellaneous**

- 36.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.
- 36.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.
- 36.3 The headings of the sections contained in this Contract are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Contract.
- 36.4 This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, e.g., and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

**37. Contract Monitor and Procurement Officer**

- 37.1 The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor's responsibilities. The Department of Juvenile Services may change the Contract Monitor at any time by written notice to the Contractor.
- 37.2 The Procurement Officer has responsibilities as detailed in the Contract, and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.

**38. Notices**

All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, as follows:

If to the State:

Larry McLaurin  
9700 Harford Road  
Phone Number: (410) 663-7738  
E-Mail: [larry.mclaurin@maryland.gov](mailto:larry.mclaurin@maryland.gov)

With a copy to:

Michelle Thomas  
Department of Juvenile Services (DJS)  
Phone Number: (410) 230-3437  
E-Mail: [Michelle.thomas2@maryland.gov](mailto:Michelle.thomas2@maryland.gov)

If to the Contractor:

(Contractor's Name)  
(Contractor's primary address)  
Attn: \_\_\_\_\_

Parent Company Guarantor

Contact: \_\_\_\_\_  
Attn: \_\_\_\_\_

**39. Liquidated Damages for MBE**

- 39.1 The Contract requires the Contractor to comply in good faith with the MBE Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not comply in good faith with the requirements of the MBE Program and MBE Contract provisions. The parties further acknowledge and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision.

- 39.2 Therefore, upon issuance of a written determination by the State that the Contractor failed to comply in good faith with one or more of the specified MBE Program requirements or MBE Contract provisions, the Contractor shall pay liquidated damages to the State at the rates set forth below. The Contractor expressly agrees that the State may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of such violation.
- (a) Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): **\$21.71** per day until the monthly report is submitted as required.
  - (b) Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): **\$75.98** per MBE subcontractor.
  - (c) Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE subcontractor and amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the Contract.
  - (d) Failure to meet the Contractor's total MBE participation goal and sub goal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.
  - (e) Failure to promptly pay all undisputed amounts to an MBE subcontractor in full compliance with the prompt payment provisions of the Contract: **\$81.41** per day until the undisputed amount due to the MBE subcontractor is paid.
- 39.2 Notwithstanding the assessment or availability of liquidated damages, the State reserves the right to terminate the Contract and exercise any and all other rights or remedies, which may be available under the Contract or Law.

#### 40. Parent Company Guarantee (If applicable)

If a Contractor intends to rely on its Parent Company in some manner while performing on the State Contract, the following clause should be included and completed for the Contractor's Parent Company to guarantee performance of the Contractor. The guarantor/Contractor's Parent Company should be named as a party and signatory to the Contract and should be in good standing with SDAT.

**(Corporate name of Contractor's Parent Company)** hereby guarantees absolutely the full, prompt, and complete performance by **(Contractor)** of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations, and liabilities. **(Corporate name of Contractor's Parent Company)** may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. **(Corporate name of Contractor's Parent Company)** further agrees that if the State brings any claim, action, lawsuit or proceeding against **(Contractor)**, **(Corporate name of Contractor's Parent Company)** may be named as a party, in its capacity as Absolute Guarantor.

**41. Federal Department of Health and Human Services (DHHS) Exclusion Requirements**

The Contractor agrees that it will comply with federal provisions (pursuant to §§ 1128 and 1156 of the Social Security Act and 42 C.F.R. 1001) that prohibit payments under certain federal health care programs to any individual or entity that is on the List of Excluded Individuals/Entities maintained by DHHS. By executing this Contract, the Contractor affirmatively declares that neither it nor any employee is, to the best of its knowledge, subject to exclusion. The Contractor agrees, further, during the term of this Contract, to check the List of Excluded Individuals/Entities prior to hiring or assigning individuals to work on this Contract, and to notify the Department of Juvenile Service immediately of any identification of the Contractor or an individual employee as excluded; and of any DHHS action or proposed action to exclude the Contractor or any Contractor employee.

42. Compliance with federal Health Insurance Portability and Accountability Act (HIPAA) and State Confidentiality Law. The Contractor agrees to keep information obtained in the course of this Contract confidential in compliance with

\_\_\_\_\_. The Contractor agrees further to comply with any applicable State and federal confidentiality requirements regarding collection, maintenance, and use of health, personally identifiable, and financial information. This includes, where appropriate, the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq., and implementing regulations at 45 C.F.R. Parts 160 and 164, and the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes providing training and information to employees regarding confidentiality obligations as to health, personally identifiable, and financial information and securing acknowledgement of these obligations from employees to be involved in the Contract. This obligation further includes restricting use and disclosure of the records, generally providing safeguards against misuse of information. Keeping a record of any disclosures of information, providing all necessary procedural and legal protection for any disclosures of information, promptly responding to any requests by the Department of Juvenile Services for information about its privacy practices in general or with respect to a particular individual, modifying information as may be required by good professional practice as authorized by law, and otherwise providing good information management practices regarding all health, personally identifiable, and financial information.

42.1 The Contractor acknowledges its duty to become familiar and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq., and implementing regulations including 45 C.F.R. Parts 160 and 164. The Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:

- (a) As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the HIPAA requirements;
- (b) Providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the Contract; and
- (c) Otherwise providing good information management practices regarding all health information and medical records.

42.2 If in connection with the procurement or at any time during the Term, the Department of Juvenile Services determines that functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the Contractor

- acknowledges its obligation to execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.501 and in the form required by the Department of Juvenile Services.
- 42.3 “Protected Health Information” as defined in the HIPAA regulations at 45 C.F.R. 160.103 and 164.501, means information transmitted as defined in the regulations, that is: individually identifiable; created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and related to the past, present, or future physical or mental health or condition of an individual, the provision of healthcare to an individual, or the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.
- 42.1 The Contractor acknowledges its duty to become familiar with and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. § 1320d et seq., and implementing regulations including 45 C.F.R. Parts 160 and 164. The Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:
- (a) As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the HIPAA requirements;
  - (b) Providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the Contract; and
  - (c) Otherwise providing good information management practices regarding all health information and medical records.
- 42.2 Based on the determination by the Department of Juvenile Services that the functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA. The selected Bidder shall execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.504 and in the form as required by the Department Of Juvenile Services.
- 42.3 “Protected Health Information” as defined in the HIPAA regulations at 45 C.F.R. 160.103 and 164.501, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.

### **43. Hiring Agreement**

- 43.1 The Contractor agrees to execute and comply with the enclosed Maryland Department of Human Services (DHS) Hiring Agreement (Attachment O). The Hiring Agreement is to be executed by the Bidder and delivered to the Procurement Officer within ten (10) Business Days following receipt of notice by the Bidder that it is being recommended for Contract award. The Hiring Agreement will become effective concurrently with the award of the Contract.
- 43.2 The Hiring Agreement provides that the Contractor and DHS will work cooperatively to promote hiring by the Contractor of qualified individuals for job openings resulting from this procurement, in accordance with Md. Code Ann., State Finance and Procurement Article §13-224.

## Attachment N. Contract Affidavit

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf>.

**Attachment O. DHS Hiring Agreement**

This solicitation does not require a Hiring Agreement.

## Appendix 1. – Abbreviations and Definitions

For purposes of this IFB, the following abbreviations or terms have the meanings indicated below:

- A. Bid – The Bidder’s Bid.
- B. Bidder – An entity that submits a Bid in response to this IFB.
- C. Bid Price Form or Bid Form - The Attachment B Bid Form.
- D. Business Day(s) – The official working days of the week to include Monday through Friday. Official working days excluding State Holidays (see definition of “Normal State Business Hours” below).
- E. COMAR – Code of Maryland Regulations available on-line at <http://www.dsd.state.md.us/COMAR/ComarHome.html>.
- F. Consecutive – uninterrupted services provided from one year to next.
- G. Continuous – period of time when the contractor has maintained work for a client.
- H. Contract – The Contract awarded to the successful Bidder pursuant to this IFB. The Contract will be in the form of **Attachment M**.
- I. Contract Commencement - the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required, signs the date the Contract.
- J. Contract Monitor – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor’s responsibilities. The Department of Juvenile Services may change the Contract Monitor at any time by written notice to the Contractor.
- K. Contractor – The selected Bidder that is awarded a Contract by the State.
- L. Contractor Personnel – Employees, agents, subcontractor employees, and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this IFB.
- M. The Department of Juvenile Services or (“DJS”).
- N. eMMA – eMaryland Marketplace Advantage (see IFB **Section 4.2**).
- O. Invitation for Bids (IFB) – This Invitation for Bids issued by the Department of Juvenile Services (DJS), with the Solicitation Number and date of issuance indicated in the Key Information Summary Sheet, including any amendments thereto.
- P. Key Personnel – All Contractor Personnel identified in the solicitation as such that are essential to the work being performed under the Contract. See IFB **Sections 3.10**.
- Q. Local Time – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times should be Local Time, even if not expressly designated as such.

- R. Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- S. Normal State Business Hours - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays.
- T. Notice to Proceed (NTP) – A written notice from the Procurement Officer that work under the Contract, project, Task Order or Work Order (as applicable) is to begin as of a specified date. The NTP Date is the start date of work under the Contract, project, Task Order or Work Order. Either the Procurement Officer or the Contract Monitor regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date may issue additional NTPs.
- U. NTP Date – The date specified in a NTP for work on Contract, project, Task Order or Work Order to begin.
- V. Procurement Officer – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (**Attachment M**), and is the only State representative who can authorize changes to the Contract. The Department of Juvenile Services may change the Procurement Officer at any time by written notice to the Contractor.
- W. State – The State of Maryland.
- X. Total Bid Price - The Bidder's bid price or evaluated bid price for goods and services in response to this solicitation, included in **Attachment B** – Bid Form.
- Y. Veteran-owned Small Business Enterprise (VSBE) – A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.

## Appendix 2– Bidder Information Sheet

See link at [http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder\\_OfferorInformationSheet.pdf](http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf).

**Appendix 3- Company Profile**

Solicitation No.: \_\_\_\_\_

**TITLE:**  
**AGENCY:**

**FAILURE TO FULLY ADDRESS ALL QUESTIONS MAY RENDER YOUR BID NON-RESPONSIVE.**

**THE BIDDER SHALL SUBMIT A MINIMUM OF THREE (3) REFERENCES THAT REFLECT A MINIMUM OF THREE (3) COMPLETE AND CONSECUTIVE YEARS OF SUCCESSFUL SERVICE PERFORMANCE WITHIN THE LAST TEN (10) YEARS COMPARABLE IN SCOPE, TYPE, SIZE, MAGNITUDE, AND COMPLEXITY AS REQUIRED IN THE IFB.**

Company Name:		
Address:		
City:	State:	Zip Code:
Federal ID No.:		
Point of Contact:		Email Address:
Phone No.:	Fax No.:	
Date of Incorporation:		
Number of Years in Business under Present Name:		
List Other/Former Names under which your Organization has Operated:  (If your company has been in operation for more than three years yet only registered in Maryland for less than that time, <b>submit with your bid</b> evidence of the formation for your company outside of Maryland)		
Type of Organization (i.e., Corporation, Partnership, Individual, Joint Venture):		

List at least three (3) but no more than five (5) Company Clients for work similar in scope to the requirements of this IFB. Please furnish all requested information. If more space is needed for type of service provided, please list on an additional sheet. All references must be reachable and willing to furnish information by email or telephone conversation. Please **PRINT** clearly.

#1. Company:	Contact Person:
Address:	
City:	State: Zip Code:
Phone No.:	Email Address for Contact Person:
Type of Contract: (Please Check Box) <input type="checkbox"/> Armed Uniformed Guard - Shift <input type="checkbox"/> Unarmed Uniformed Guard - Shift <input type="checkbox"/> Armed Uniformed Guard – 24/7/365 <input type="checkbox"/> Unarmed Uniformed Guard – 24/7/365	<input type="checkbox"/> HVAC Maintenance <input type="checkbox"/> Elevator Maintenance <input type="checkbox"/> Janitorial Service <input type="checkbox"/> Pest Control <input type="checkbox"/> Other:_____
Term of Contract: Start (Month/Year)_____  End (Month/Year)_____	Contract Value: \$ _____ <input type="checkbox"/> Annual <input type="checkbox"/> Three years <input type="checkbox"/> Other _____
<b>Do not indicate “to the present”</b>	
Size (Sq. Footage) <u>and</u> describe the Type of Facility:	
Please <u>describe in detail</u> the services that were provided:	

<b>#2. Company:</b>		<b>Contact Person:</b>	
Address:			
City:		State:	Zip Code:
Phone No.:		Email Address for Contact Person:	
Type of Contract: (Please Check Box) <input type="checkbox"/> Armed Uniformed Guard - Shift <input type="checkbox"/> Unarmed Uniformed Guard - Shift <input type="checkbox"/> Armed Uniformed Guard – 24/7/365 <input type="checkbox"/> Unarmed Uniformed Guard – 24/7/365		<input type="checkbox"/> HVAC Maintenance <input type="checkbox"/> Elevator Maintenance <input type="checkbox"/> Janitorial Service <input type="checkbox"/> Pest Control <input type="checkbox"/> Other: _____	
Term of Contract: Start (Month/Year) _____  End (Month/Year) _____  <b>Do not indicate “to the present”</b>		Contract Value: \$ _____ <input type="checkbox"/> Annual <input type="checkbox"/> Three years <input type="checkbox"/> Other _____	
Size (Sq. Footage) <u>and</u> describe the Type of Facility:			
Please <u>describe in detail</u> the services that were provided:			

#3. Company:		Contact Person:	
Address:			
City:		State:	Zip Code:
Phone No.:		Email Address for Contact Person:	
Type of Contract: (Please Check Box) <input type="checkbox"/> Armed Uniformed Guard - Shift <input type="checkbox"/> Unarmed Uniformed Guard - Shift <input type="checkbox"/> Armed Uniformed Guard – 24/7/365 <input type="checkbox"/> Unarmed Uniformed Guard – 24/7/365		<input type="checkbox"/> HVAC Maintenance <input type="checkbox"/> Elevator Maintenance <input type="checkbox"/> Janitorial Service <input type="checkbox"/> Pest Control <input type="checkbox"/> Other: _____ _____	
Term of Contract: Start (Month/Year) _____		Contract Value: \$ _____	

<p>_____ End (Month/Year)_____</p> <p>_____ <b>Do not indicate “to the present”</b></p>	<p><input type="checkbox"/> Annual   <input type="checkbox"/> Three years   <input type="checkbox"/> Other</p> <p>_____</p>
<p>Size (Sq. Footage) <u>and</u> describe the Type of Facility:</p>	
<p>Please <u>describe in detail</u> the services that were provided:</p>	

#4. Company:		Contact Person:
Address:		
City:	State:	Zip Code:
Phone No.:	Email Address for Contact Person:	
<p>Type of Contract: (Please Check Box)</p> <p><input type="checkbox"/> Armed Uniformed Guard - Shift</p> <p><input type="checkbox"/> Unarmed Uniformed Guard - Shift</p> <p><input type="checkbox"/> Armed Uniformed Guard – 24/7/365</p> <p><input type="checkbox"/> Unarmed Uniformed Guard – 24/7/365</p>	<p><input type="checkbox"/> HVAC Maintenance</p> <p><input type="checkbox"/> Elevator Maintenance</p> <p><input type="checkbox"/> Janitorial Service</p> <p><input type="checkbox"/> Pest Control</p> <p><input type="checkbox"/> Other:_____</p>	
<p>Term of Contract: Start (Month/Year)_____</p> <p>End (Month/Year)_____</p> <p><b>Do not indicate “to the present”</b></p>	<p>Contract Value: \$_____</p> <p><input type="checkbox"/> Annual   <input type="checkbox"/> Three years   <input type="checkbox"/> Other</p> <p>_____</p>	
<p>Size (Sq. Footage) <u>and</u> describe the Type of Facility:</p>		
<p>Please <u>describe in detail</u> the services that were provided:</p>		

<b>#5. Company:</b>		<b>Contact Person:</b>	
Address:			
City:		State:	Zip Code:
Phone No.:		Email Address for Contact Person:	
Type of Contract: (Please Check Box) <input type="checkbox"/> Armed Uniformed Guard - Shift <input type="checkbox"/> Unarmed Uniformed Guard - Shift <input type="checkbox"/> Armed Uniformed Guard – 24/7/365 <input type="checkbox"/> Unarmed Uniformed Guard – 24/7/365		<input type="checkbox"/> HVAC Maintenance <input type="checkbox"/> Elevator Maintenance <input type="checkbox"/> Janitorial Service <input type="checkbox"/> Pest Control <input type="checkbox"/> Other: _____	
Term of Contract: Start (Month/Year) _____  End (Month/Year) _____  <b>Do not indicate “to the present”</b>		Contract Value: \$ _____  <input type="checkbox"/> Annual <input type="checkbox"/> Three years <input type="checkbox"/> Other _____	
Size (Sq. Footage) <u>and</u> describe the Type of Facility:			
Please <u>describe in detail</u> the services that were provided:			

## Appendix 4. – Quarterly Vendor Performance Report

<b><u>QUARTERLY VENDOR PERFORMANCE REPORT</u></b> This form will be used to report satisfactory or unsatisfactory vendor performance. A copy will be given to the vendor and will become a permanent part of the vendor's file. This report must be completed by the agency quarterly and submitted to the DJS Procurement Officer within ten (10) days.		<b><u>eMail To:</u></b> _____ Name of Procurement Officer _____@maryland.gov Report Date: _____ Report Due By: _____
User Agency/Department Submitting Report: _____		
Contact Person: _____ Telephone Number: _____ Address: _____ eMail Address: _____		
Title of Service/ _____ Location _____ DGS BPO # _____	Is there a Minority Business Enterprise (MBE) goal? Yes _____ Goal _____ No _____ Is contractor compliant? Yes _____ No _____ Is this a Small Business Reserve (SBR)? Yes _____ No _____ Term of Contract: _____ to _____	
Vendor's Name: _____ Name of Company _____ _____	Vendor's Phone #: _____ Vendor's eMail Address: _____ _____	
Brief description of service(s) provided by Vendor: _____		
A. Using your Invitation to Bid (IFB), Scope of Work (SOW), for this contract, evaluate the vendor's performance. For any area(s) of non-compliance, include the specific section(s) consistent with the area(s) of vendor's compliance with contract terms and conditions. Use additional pages to complete Sections A, B, and C, as needed. 1. _____ 2. _____ 3. _____		
B. Explain steps taken on the agency's level to resolve the problem and the vendor's response to those steps: (User Agency shall maintain documentation to support all areas of vendor's non-compliance). _____		
C. Remarks: Be accurate, complete and factual. _____		
Overall rating <input type="checkbox"/> Satisfactory <input type="checkbox"/> Unsatisfactory		
_____ Printed Name and Title of Person Initiating Form                      Authorized Signature and Date		

**44. Limited English Proficiency**

The Contractor shall provide equal access to public services to individuals with limited English proficiency in compliance with Md. Code Ann., State Government Article, §§ 10-1101 et seq., and Policy Guidance issued by the Office of Civil Rights, Department of Health and Human Services, and MDH Policy 02.06.07.

SIGNATURES ON NEXT PAGE

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.

Contractor: Larry McLaurin	State of Maryland Department of Juvenile Services (DJS)
By: <<Contractor Signer>>	By: <<agencyContractSigner>>, <<agencyContractSignerTitle>>
Date:	Date:
Witness/Attest:	Witness/Attest:
PARENT COMPANY (GUARANTOR) (if applicable)	
By:	
Date:	
Witness/Attest:	

Approved for form and legal sufficiency this ____ day of _____, 20____. _____ Assistant Attorney General	
APPROVED BY BPW: _____ <div style="display: flex; justify-content: space-around;"> <span>(Date)</span> <span>(BPW Item #)</span> </div>	

**Appendix 5 – Small Business Contract Affidavit**

**\*\*\*\*\* PROVIDING FALSE INFORMATION \*\*\*\*\***

Anyone providing false information to the State of Maryland in connection with obtaining or attempting to obtain a contract under Small Business Reserve or Preference procurement may be subject to the following:

1. A determination by a Procurement Officer that a bidder/offeror is not responsible;
2. A determination that a contract entered into is void or voidable under § 11-204 of the State Finance and Procurement Article of the Annotated Code of Maryland;
3. Suspension and debarment under Title 16 of the State Finance and Procurement Article;
4. Criminal prosecution for procurement fraud (§ 11-205.1 of the State Finance and Procurement Article), perjury, or other crimes; and
5. Other actions permitted by law.

**\*\*\*\*\* FAILURE TO MEET MINIMUM QUALIFICATIONS \*\*\*\*\***

Any Bidder or potential bidder failing to meet the qualifications of a "small business" specified in § 14-501(c) of the State Finance and Procurement Article will be ineligible to participate in a procurement designated for a Small Business Reserve under § 14-504 or Small Business Preference under § 14-206 - 207. Any person or company bidding on Small Business Reserve or Preference procurement and not qualifying as a small business under § 14-501(c) will have its bid or offer rejected on the ground that the bidder is not responsible.

I AFFIRM THAT:

To the best of my knowledge, information, and belief, as of the date of submission of this Bid/Proposal,

\_\_\_\_\_ (name of firm) meets the qualifications for certification as a Small Business in Maryland. I further affirm that, if for any reason during the term of the contract \_\_\_\_\_ (name of firm) no longer meets the qualifications for certification as a Small Business in Maryland, I will notify the Procurement Officer within 30 days. I agree that a failure to so notify the Procurement Officer of this change in circumstances may result in this contract being terminated for default.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

SMALL BUSINESS QUALIFICATION NUMBER: \_\_\_\_\_

Date of Most Recent Qualification: \_\_\_\_\_ DATE: \_\_\_\_\_

BY: \_\_\_\_\_

Signature (Authorized Representative and Affidavit)

**Appendix 6 – Equipment List**

Building	Equipment	Model No.
<b>Housing Unit 1</b>	One (1) Peerless gas hot water boiler	G707FDA-WUP
	Two (2) Magic Aire, Air Handlers	BHX -3-A
	One (1) Magic Aire Air Handler	60 BHX - 3-a
	One (1) Trane Condensing Unit	TTR060C100A2
	One (1) Rheeme Condensing Unit	T2AA3602A757
	One (1) American Standard Condensing Unit	2A7A4060B1000BA
	One (1) York Heat Pump	BP09E36N2AA4A
	Four (4) Gas Fired Rinnia Tankless Hot Water Heaters	RC981
Building	Equipment	Model No.
<b>Housing Unit 2</b>	One (1) Peerless Gas Hot Water Boiler	G707FDA-WUP
	Two (2) Magic Aire Air Handlers	48-BHX - 3- A
	One (1) Magic Aire Air Handler	60-BHX-3-A
	Two (2) Trane Condensing Units	TTR060C100A2
	One (1) Trane Condensing Unit	TTA090A300CB
	One (1) York Heat Pump	BP09E36N2AA4A
	Four (4) Gas Fired Rinnia Tankless Hot Water Heaters	RC981
Building	Equipment	Model No.
<b>Housing Unit 3</b>	One (1) Peerless Hot Water Boiler	G707FDA-WUP

	Four (4) Magic Aire Air Handlers	48-BHX-3-A
	One (1) Magic Aire Air Handler	90-BHX-3-A
	Two (2) Trane Condensing Units	TTR060C100A2
	One (1) Trane Condensing Unit	TTA090A300CB
	One (1) Air Temp Condensing Unit	Vs48-E-048KA
	One (1) Thermal Zone - Condensing Unit	10AJB60A05
	One (1) York Heat Pump	BP09E36N2AA4A
	Four (4) Gas Fired Rinnia Tankless Hot Water Heaters	RC981
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>Housing Unit 4</b>	One (1) Peerless Gas Hot Water Boiler	G707FDA-WUP
	Two (2) Magic Aire Air Handlers	48-BHX-3-a
	One (1) Magic Aire Air handler	60-BHX-3-A
	Two (2) Trane Condensing Units	TTR060C100A2
	One (1) Trane Condensing Unit	TTA090A300CB
	One (1) York Heat Pump	BP09E36N2AA4A
	Four (4) Gas Fired Rinnia Tankless Hot Water Heaters	RC981
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>Housing Unit 7</b>	One (1) Peerless Gas Hot Water Boiler	G707FDA-WUP
	Three (3) Magic Aire Air Handlers	48-BHX-3-A

	One (1) Trane Condensing Unit	TTR060C100A2
	One (1) Trane Condensing Unit	TTA090A300CB
	One (1) Gibson Condensing Unit	JS48D060KA
	Four (4) Gas fired Rinnia Tankless Hot Water Heaters	RC981
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>TMA Building</b>	One (1) Peerless Gas Hot Water Boiler	G707FDA-WUP
	One (1) A.O. Smith Hot Water Heater	BTR154118
	Two (2) Carrier Air Handler	40RR024530
	Two (2) Fraser Johnson Condensing Units	HCHBT240AB
	One (1) Arcoaire Condenser	n4a360GH300
	One (1) York Air Handler	EHD4X60AAL1
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>Jr. Gym/ Medical</b>	One (1) Rudd Gas Hot Water Heater	G100-*0N
	One (1) Peerless Hot water Boiler	LC-04-WUP
	One (1) York 10 RTU	J10ZHC00D2BAA1A1
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>Senior Gym</b>	One (1) A.O. Smith Gas Hot Water Boiler	19ASW12
	Two (2) Steam air handling units – Herman Nelson	MB2180
	Steam Boiler treatment is sb-340	N/A
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>

<b>Central Kitchen</b>	One (1) Greenback Gas Fired make up air unit	DG-118-H30
	Five (5) Mitsubishi MR Slim 12,000BTU/H Wall Mounted Indoor Unit for MXZ- -B Multi-Zone.	MSZGE12NA-8
	One (1) Mitsubishi MR Slim four (4) Ton Multi- Indoor Inverter Heat Pump Condenser	MXZ-8B48NA
	Three (3) Trane Up Flow Gas Fired Furnaces	TDH1B040A9H21A
	One (1) Modine Gas Fired Unit Heater	HDS45AS011
	One (1) Trane Gas Fired Fifteen (15) Ton Packaged Rooftop Air Conditioner	YCD
	Three (3) Gas Fired Rinnia Tankless Hot Water Heaters	RC981
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>Gatehouse</b>	One (1) American Standard Heat Pump	4WCC30
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>Administration</b>	Two (2) Carrier Air Handler	FB4CNF060
	Two (2) Carrier Condensing Units	24ABB360A520
	One (1) Carrier Split System Condenser	38CKC060520
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>Auto Shop</b>	One (1) Armstrong Forced Hot Air System	LBR80C196B24-1A
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>Unit 8</b>	Two (2) Carrier Outside Units	25HBC360H310

	One (1) Carrier air handler	FB4CNF060
	One (1) Carrier air handler	BB4CNF060
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>Unit 9</b>	Two (2) Carrier Outside Units	25HBC360W300
	Two (2) Carrier Air Handlers	FB4CNF060
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>Unit 14</b>	Two (2) Carrier Outside Units	25VNA060A300
	Two (2) Carrier Air Handlers	FE4AN8006
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>House 33</b>	One (1) York Heat Pump	YZH02411C
	One (1) York Inside Unit	AHX36C3XH21A
	One (1) GE Hot Water Heater	GE12098-14820
	One (1) Mitsubishi Electric Mr. Slim R410A Split System Heat Pump	MXZ2B20NA
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>House 35</b>	One (1) Trane XR13 Heat Pump	2TWR3030A1000AA
	One (1) Trane Inside Unit	2TEC3F30B1000AA
	One (1) GE Hot Water Heater	GE0205B29763
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>House 36</b>	One (1) York Heat Pump	Y2H03611CA
	One (1) York Inside Unit	AHX36C3XH2-1A
	One (1) GE Hot Water Heater	GE1007029745
<b>Building</b>	<b>Equipment</b>	<b>Model No.</b>
<b>House 39</b>	One (1) York Heat Pump	W1L4183119
	One (1) York Inside Unit	AHX5663H21A

	One (1) GE Hot Water Heater	GE1001C00074
Building	Equipment	Model No.
House 40	One (1) York Heat Pump	4ZH03612CA
	One (1) York Inside Unit	AHX56CXH21A
	One (1) GE Hot Water Heater	GE0301004779